

**Plaintiff  
Jackie Fisher's**

**Response in Opposition  
to Defendants'**

**Motion for  
Summary  
Judgment**

**EXHIBIT**

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<p>1 my intent is to get answers to the questions that 2 I'm asking, and so if you don't understand my 3 question, I'm not going to get the answer that's the 4 correct answer, which is your real answer. So stop 5 me. Ask me to repeat it. I don't mind. I'm pretty 6 flexible about everything. I just want to make sure 7 we get good answers.</p> <p>8 A Yes, ma'am.</p> <p>9 Q So how many times have you had your 10 deposition taken?</p> <p>11 A Once.</p> <p>12 Q Once. And what was that?</p> <p>13 A It was --</p> <p>14 Q The subject of that case?</p> <p>15 A -- a private lawsuit.</p> <p>16 Q Okay. And that -- we just had an example 17 of where, as Mr. Cummings described yesterday, you 18 kind of anticipated what I was going to say and you 19 started to answer it before. And it's hard for the 20 court reporter and we like to keep her on our side 21 because we use her on a number of occasions. So if 22 you let me complete my questions and then I'll try 23 to give you the same courtesy and time and let you 24 complete yours without asking another question on 25 top of your answer. Okay?</p>		<p>1 A Actually, I don't -- it's been some time 2 ago and I don't even remember what they were.</p> <p>3 Q Okay. And in preparation with your 4 attorney, do you have your own attorney --</p> <p>5 A No.</p> <p>6 Q -- other than the UTMB attorneys?</p> <p>7 A With Mr. Lively.</p> <p>8 Q Okay. And you're located here in 9 Huntsville. Is that correct?</p> <p>10 A No, ma'am.</p> <p>11 Q Okay. Where is your -- oh, Palestine. 12 Where's your office?</p> <p>13 A In Palestine, Texas.</p> <p>14 Q Okay. Need just a little personal 15 information and we won't put this in the deposition 16 but I'll write it down in case we need to get in 17 contact with you further. What's your physical home 18 address?</p> <p>19 A (Redacted)</p> <p>20 Q And do you have a land-based phone there?</p> <p>21 A Yes.</p> <p>22 Q And what's that number?</p> <p>23 A (Redacted)</p> <p>24 Q Okay. And what's the highest educational 25 level you've achieved, Ms. Gotcher?</p>	
<p>1 A Fine.</p> <p>2 Q Great. Thanks. Is there any reason that 3 you can't give good and accurate answers today?</p> <p>4 A No.</p> <p>5 Q You've not taken any medication, any 6 reason that your thinking and your ability to 7 communicate is impaired.</p> <p>8 A No.</p> <p>9 Q Okay. And did you have a chance to 10 review -- without telling me what you spoke about, 11 did you have a chance to review and prepare for this 12 deposition with your attorneys, one or the other or 13 both, with the attorneys for UTMB?</p> <p>14 A Yes.</p> <p>15 Q Okay. And in that process, again without 16 telling me what you spoke about, did you have the 17 opportunity to review any documents in preparation 18 for today?</p> <p>19 A I didn't review anything special for 20 today, no.</p> <p>21 Q Well, have you had a chance to review any 22 documents in preparation for this lawsuit?</p> <p>23 A I reviewed some documents in preparation 24 for meeting with my attorney.</p> <p>25 Q Okay. And what documents did you review?</p>	6	<p>1 A I have a postmaster's degree with my nurse 2 practitioner's -- my family nurse practitioner's 3 licensure.</p> <p>4 Q Okay. And when you say "postmaster's," is 5 that a master of science?</p> <p>6 A Yes.</p> <p>7 Q And where is that from?</p> <p>8 A University of Texas Medical Branch.</p> <p>9 Q And that's at Galveston?</p> <p>10 A Yes.</p> <p>11 Q When did you achieve that?</p> <p>12 A Ten years ago, I got my nurse 13 practitioner's licensure. 12 years ago -- longer 14 than that. 14 years ago, I got my master's degree 15 in nursing administration, specialty in nursing 16 administration.</p> <p>17 Q And where was your master's?</p> <p>18 A At the University of Texas Medical Branch.</p> <p>19 Q Okay. And if we're saying 14 years ago, 20 is that --</p> <p>21 A That's a guess.</p> <p>22 Q Okay. And so if I can do the math, 2009. 23 1995?</p> <p>24 A Probably close.</p> <p>25 Q Okay. Around?</p>	8

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1 A Around. 2 Q Okay. That's not critical that we have 3 that exact one. All right. And so you have a 4 master's in nursing? 5 A Yes. 6 Q And your post master's, what category is 7 that, would that be? 8 A Family nurse practitioner. 9 Q And where did you do -- prior to your 10 master in nursing, where did you go to school? 11 A Obtained a bachelor's degree in nursing 12 from the University of Texas Medical Branch. 13 Q Again, in Galveston? 14 A Yes. 15 Q Are you from Galveston? 16 A No. 17 Q Okay. Are you from Texas? 18 A Yes. 19 Q Okay. All right. And where did you go to 20 high school? 21 A I had an associate's degree before that. 22 Do you want to know about that? 23 Q Surely. I skipped one. I'm sorry. I 24 want to hear them all. 25 A I had an associate's degree for my first	1 Q And how old is she? 2 A 28. 3 Q And that's a good thing that she doesn't 4 live with you anymore; isn't it? 5 A Yes, it is. 6 Q Okay. Anybody else work for the State in 7 your family? 8 A No. 9 Q Okay. Let's talk about your employment 10 history. 11 A Oh. 12 Q Well, let me cut that short. Among the 13 things that were provided to the EEOC was an 14 application that you completed when you applied for 15 work at UTMB, and if we would refer to that 16 application, would it be correct, as stated, as to 17 your prior work history? 18 A I don't remember exactly what's on it but 19 I would assume that it is correct. 20 Q Okay. And we could rely on that in terms 21 of your past employment history. 22 A Yes. 23 Q So let's just limit it to UTMB. How's 24 that? 25 A That's fine.	
10	12	
1 RN licensure and I got it from Brazosport College 2 and Galveston College. It was a cooperative program 3 that they had between the two colleges. 4 Q And when was that? 5 A I graduated with that in 1979. 6 Q I'm ultimately going to get around to 7 getting you to disclose how long you've been doing 8 this. And any other advanced, beyond-high-school 9 education? 10 A No. 11 Q Okay. And where did you go to high 12 school? 13 A Brazoswood High School. 14 Q Brazoswood? 15 A Yes. 16 Q And where is that located? 17 A Clute, Texas. Clute, Texas. 18 Q Clute. And what year did you graduate 19 from there? 20 A 1976. 21 Q Okay. Do you have a family? 22 A Yes. 23 Q And what -- who and which -- 24 A I have a spouse that lives with me. I 25 have a daughter that does not live with me.	1 Q And when did you start at UTMB? 2 A 1999. 3 Q And what did you start as? 4 A As a nurse practitioner. 5 Q On a scale of understanding how the 6 ranking or the pecking order goes, could you start 7 at the bottom of the nursing scale and go up the top 8 for me where -- LVNs and RNs and you've got 9 assistant nurse managers and nurse managers. How 10 does that all work? 11 A I don't know that I understand your 12 question for sure. 13 Q Okay. Well, let me try it again. If 14 there were an organizational chart of all the 15 nursing staff of UTMB -- and because it's TDC, we're 16 just going to limit our conversation to the UTMB/TDC 17 structure -- what would be at the very bottom row? 18 What level or what position? 19 A Well, we can go all the way down to 20 nursing assistants. 21 Q Okay. 22 A And then there's -- in our -- in our -- 23 Q Is that an abbreviation that you call 24 these people? Because I've read so many letters, I 25 get confused. When you refer to them in notes or	

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<p>1 correspondence? 2 A We -- they're in a group called unlicensed 3 assistant personnel. 4 Q Okay. But -- okay. So assistant nurses 5 and they're unlicensed. 6 A Those aren't assistant nurses. 7 Q All right. 8 A I did not say assistant nurses. 9 Q Sorry. 10 A I said nurse assistants. 11 Q Nurse assistants. Okay. And they're not 12 licensed nurses. 13 A No. 14 Q Okay. Let's start with the ones that have 15 licenses. That's what I really care about. 16 A That's an LVN. 17 Q Okay. That's the -- would be at the 18 bottom of the license. 19 A Yes. 20 Q And "LVN" stands for? 21 A Licensed vocational nurse. 22 Q Okay. 23 A Then the RN is next. 24 Q And the "RN" stands for? 25 A Registered nurse.</p>	<p>1 A There's mid-level providers, is what 2 they're called. 3 Q Okay. 4 A And they're PAs. That's a group of 5 physician's assistants or nurse practitioners. 6 Q So PAs are physician assistants and nurse 7 practitioners? 8 A Practitioners or advanced practice nurses. 9 They're licensed by the board of nurses and they can 10 have different specialties: Adult, family, maternal 11 health, geriatric. Nurse practitioners can have 12 different specialties. 13 Q Okay. And are they noted by what 14 initials? 15 A NP is all of them but I'm recognized with 16 an FNP, which is a family nurse practitioner. 17 Q So it would identify your specific 18 specialty? 19 A Yes. 20 Q Okay. Do you have to have a specialty to 21 be a nurse practitioner? 22 A Yes. 23 Q Okay. 24 A You have to choose. 25 Q All right. And so after the -- and those</p>	
<p>1 Q Okay. And in terms of training among -- 2 between these two, what's the difference in the 3 requirement? 4 A The LVN is very -- the board requires the 5 LVN be trained in task, nursing task procedure, 6 direct care, patient care kind of tasks. An RN is 7 differentiated by their critical thinking skills and 8 putting more of a cooperative plan, patient care 9 plan together, rather than just doing a task, and 10 coordinating care between the different disciplines. 11 Q Okay. And is there an educational 12 difference? 13 A Yes, there is. 14 Q And what would that be? 15 A Well, it depends whether you're getting an 16 associate degree or a bachelor's degree. 17 Q Okay. 18 A But both of those pass the same state 19 boards for the RNs. Educationally, an LVN is only 20 about a nine-month course, nine-month to a year. An 21 RN is -- at the minimum, is a two-year degree with 22 an associate's. 23 Q Okay. So on up the food chain in the 24 structure of UTMB and Texas Department of Criminal 25 Justice.</p>	<p>14</p> <p>1 would be the mid-level providers. Correct? 2 A And after that are the physicians. 3 Q Okay. And where do the nurse managers and 4 the assistant nurse managers and that structure, 5 where does that fit in? 6 A I've just named to you clinical side of 7 how things work clinically. Assistant nurse 8 managers, nurse managers, medical directors are 9 in -- on the administrative side of the house. They 10 are RNs for nursing. The assistant nurse managers 11 and nurse managers are all RNs. 12 Q And on the administrative side, is the 13 lowest-level administrator an assistant nurse 14 manager? 15 A In our system, yes. 16 Q Okay. Then it would be the nurse manager? 17 A Yes. 18 Q And what comes after that? 19 A There is a district nurse manager and then 20 there is my position, which is nursing director of 21 outpatient services. There is also a director of 22 inpatient services. 23 Q And that would be a nursing director of 24 inpatient? Who -- 25 A Yes.</p>	16

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1	Q Who is that?	1	here. You're making me work.
2	A Gary Eubank.	2	THE WITNESS: Close. Close.
3	Q Gary?	3	Q (BY MS. MILLER) Is that 2003?
4	A (Moving head up and down) Eubank.	4	A Yes.
5	Q Eubanks? Okay. And so at the time that	5	Q All right.
6	the facts of this lawsuit took place, we're speaking	6	A That's close.
7	really about Ms. Fisher being an assistant nurse	7	Q Okay. And were you the director of
8	manager that she started as.	8	nursing for the northern division at the time that
9	A Yes.	9	Ms. Fisher was made -- or was first promoted to be a
10	Q And then she was promoted to a nurse	10	nurse manager?
11	manager.	11	A Yes.
12	A Yes.	12	Q So --
13	Q And then she was demoted to an assistant	13	A I think so, yes.
14	manager.	14	Q That was under your tenure --
15	A Yes.	15	A Yes.
16	Q And then she was promoted back to a nurse	16	Q -- that she was promoted.
17	manager.	17	A Yes.
18	A Yes.	18	Q Did you have any involvement in that
19	Q Okay. There was some discussion about a	19	promotion?
20	clinical nurse III position. Where does that fall?	20	A No.
21	A That's the RN.	21	Q You don't approve promotions at that
22	Q Okay. And it's not an administrative	22	level?
23	position.	23	A I'm usually notified that -- of who
24	A No.	24	they're going to put in the facility nurse manager
25	Q Okay. How long have you been the nursing	25	position, but I don't make the decision. The
1	director of outpatient services?	1	district managers made that --
2	A We've reorganized recently and that's a	2	Q And in that time --
3	new title for me. We just reorganized in-service	3	A -- make those decisions.
4	line to inpatient and outpatient within the last six	4	Q Sorry? I do that to you. Were you
5	months.	5	finished?
6	Q Okay. Prior to that, what was your title?	6	A Yes.
7	A We were divided geographically, north and	7	Q Okay. And at the time she was promoted,
8	south, and I was the director of nursing for the	8	the decision maker in that promotion was David
9	northern division.	9	Watson.
10	Q And northern division included what?	10	A Yes.
11	A Anything Huntsville and north.	11	Q Is that correct? Okay. So prior to the
12	Q All right. And the director of the	12	time that you were promoted to the director of
13	southern portion of it?	13	nursing for the northern division, what position did
14	A Was Gary Eubank.	14	you hold with UTMB?
15	Q Was Gary. Okay. So you two still have	15	A I was a nurse practitioner. I worked
16	essentially the same responsibilities, just	16	as -- in the -- in the facilities.
17	different divisions, different slice of the pie, so	17	Q Were you at all a nurse manager?
18	to speak?	18	A Not during that time, no.
19	A Yes.	19	Q Okay. And how long were you a nurse
20	Q And at what point were you named director	20	practitioner in the facilities?
21	of nursing for the northern division?	21	A Four years.
22	A It's been six years.	22	Q What facilities did you work in?
23	Q Okay. Is that 2003?	23	A Coffield, Michael.
24	MS. FISHER: It would be 2003.	24	Q Coffield?
25	MS. MILLER: I have to do the math	25	A Coffield and Michael were the major.

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1       Q   Are those up north? 2       A   Yes. 3       Q   Okay. And at -- prior to those four 4   years, what did you do for UTMB? 5       A   I didn't work for UTMB. 6       Q   All right. So prior to the management -- 7   prior to the time you started working for UTMB, I 8   know I said I have your resume, but tell me about 9   the managerial positions that you held, the ones 10   that would require managing-people skills. 11      A   Throughout my career, I have been -- I've 12   moved back and forth between clinical and 13   administrative roles. I've held several 14   administrative roles at Brazosport Hospital in Lake 15   Jackson, Texas, over the ICU and over their medical 16   floor. I've also worked three years at the 17   University of Texas Medical Branch in Galveston as a 18   manager over their urology floor and over their 19   recovery room and over their surgical ICUs. 20      Q   Okay. I think I can read my writing. I'm 21   not sure. Surgical ICUs? 22      A   Yes. 23      Q   And Brazosport -- is that a hospital? 24      A   Yes. 25      Q   All right. When you were in charge of the	1       administration, broad concepts? 2       A   I guess broad concepts are going to be 3   budgeting, finance, human resource management, 4   employment management, normal school. 5       Q   Normal school stuff. Okay. And then 6   working for Brazosport or UTMB, did you receive any 7   additional training through the companies you worked 8   for to assist you with your management skills? 9       A   I have made myself available for lots of 10   training throughout my 32 years as an RN. 11      Q   Okay. Well, then let's limit it to when 12   you joined UTMB. What kind of special training, in 13   addition to that that you came with, have you had to 14   assist you in your management skills? 15      A   Are you talking about the last ten years 16   that I've been here? 17      Q   That's fine. I can limit it to ten. 18      A   Okay. That's the time that I've been here 19   at UTMB, so -- 20      Q   Yes. 21      A   -- I believe that's what you asked. I was 22   making sure. 23      Q   Yes. 24      A   UTMB avails us of many management and 25   leadership courses throughout those ten years from	
	22	24
1       ICU, how many people reported to you? 2       A   I don't remember. 3       Q   Can you give me a range? 4       A   20. 5       Q   Okay. And how about on the -- 6        MS. FISHER: Medical floor? 7        MS. MILLER: Medical floor? Thank 8   you. Do you want a job? 9       Q   (BY MS. MILLER) On the medical floor? 10      A   I probably had close to 40 employees. 11      Q   And how about on -- when you worked for 12   UTMB those three years when you were in urology, 13   number of employees? 14      A   Probably 25. 15      Q   Recovery room? 16      A   Probably close to the same. 17      Q   Okay. And surgical ICU? 18      A   Probably more like 40. 19      Q   Okay. Before you came to UTMB, did you 20   have any special training in management and people 21   skills, HR-type training? 22      A   Yes. I have a master's degree, nursing 23   administration. 24      Q   And what are some of the concepts that you 25   studied in receiving that degree in nursing	1       servant leadership to dealing with difficult people 2   to -- those are still available by our education 3   department and I've availed myself of all those 4   classes that were available there. 5       Q   Are they computer-based classes or -- 6       A   Not all of them. Some of them are 7   classroom classes and some are computer-based 8   classes. 9       Q   And so the record of that is in your 10   personnel file, I'm sure. 11      A   I'm sure. 12      Q   Okay. And what about Texas Department of 13   Criminal Justice? Did you get any special training 14   through that or -- 15      A   No. 16      Q   -- that interface doesn't provide for 17   additional training for you? 18      A   No. They're -- we contract through -- 19      Q   How do you -- how are -- is the 20   information disseminated from TDCJ to you in terms 21   of that integration, if you need to know TDCJ 22   policies and procedures? 23      A   We have a TDCJ Health Services Division 24   that we work with very closely and we cooperatively 25   do those -- make those decisions with them as a	

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1    partner, as a contractual partner, and we have that 2    manual available to us at any time. 3       Q    Okay. How long have you known Jackie 4    Fisher? 5       A    Probably the last six years. 6       Q    And how did you first come to meet 7    Ms. Fisher? 8       A    I met her as one of my employees when I 9    became the district nurse manager or the director. 10      Q    And describe that -- the instance or how 11   you facilitate meeting your employees. What did you 12   do? 13      A    Well, when I first became a nurse manager, 14   I visited each one of the facilities with their 15   managers and with the management teams and visited 16   each facility and spoke with managers about their 17   particular facility and the needs and the mission on 18   the different facilities and what their particular 19   needs were. 20      Q    Okay. And that was in 2003 when you first 21   started? 22      A    Um-hmm. 23      Q    How often did you visit the facilities 24   after that initial get-acquainted visit? 25      A    That's varied depending on the facility	1    Huntsville. I spend time in their offices, as well, 2    and meeting with them for policy and procedure 3    reasons. I spend time in Galveston with our main 4    office location in Galveston, with meetings and 5    functions there, as well. So it could be for 6    various things. 7       Q    Okay. So after you first met Jackie 8    Fisher in 2003, what -- did you have occasion to 9    meet -- or to communicate with her subsequent to 10   that? 11      A    Not usually. Saw her at conferences, knew 12   who she was. But, no. I -- there was a district 13   manager that was her direct supervisor. 14      Q    And so your role would really be to work 15   directly with him, not with -- 16      A    Yes. 17      Q    -- Ms. Fisher. Okay. When did you first 18   become aware that Ms. Fisher was complaining of 19   racial discrimination at UT -- by members of 20   management at UTMB? 21      A    I have no idea. 22      Q    Okay. And -- 23      A    I do not remember. 24      Q    -- do you remember conceptually what it 25   was that you were made aware of, if you don't		
	26		28
1    and what the needs were. 2       Q    Okay. So once a month? Once a year? 3       A    I have no -- there is no -- there are some 4    units that I've been at weekly. There are some 5    units that I have not been at in a year. So that is 6    very different, depending on the needs of each 7    particular facility. 8       Q    Okay. So -- and your office is in 9    Palestine? 10      A    Yes. 11      Q    All right. So a typical week in 12   Palestine, would you be there, primarily, or would 13   you be out in the field? 14      A    I'm out of town from my office at least 15   two to three days a week. 16      Q    And would that have been true in 2006 and 17   2007? 18      A    Yes. 19      Q    And those two to three days a week 20   would -- normally those would be spent visiting 21   on-site locations? 22      A    Sometimes. 23      Q    And what other out-of-the-office kind of 24   activities would you participate in? 25      A    TDCJ Health Services is here in	1    remember the time? 2       A    No. I don't. I remember her concern. 3    Probably after the on-site visit is when I knew that 4    she was concerned. 5       Q    Okay. And that would be the on-site visit 6    in January of 2006? 7       A    Yes. 8       Q    Let's talk about that specifically and 9    that. What precipitated that particular visit that 10   you -- and I just know from other discussions -- 11   that you made and you were accompanied, I believe, 12   by Ms. Melton? 13      A    Yes. 14      Q    Okay. What precipitated that visit? 15      A    Multiple things precipitated that visit. 16   I had been having discussions with Mr. Watson about 17   the performance of Estelle facility. I had received 18   several e-mails from some employees at the Estelle 19   facility that were unhappy. The turnover was 20   increasing at that facility and Mr. Watson felt that 21   he had made all the assessment and done all the 22   changes that he could do, and he and I agreed that I 23   would facilitate continued improvement at Estelle by 24   doing an on-site investigation to see what I could 25   find different.		

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<p>1 Q And that was a discussion you had directly 2 with Mr. Watson?</p> <p>3 A Yes.</p> <p>4 Q Was Ms. Melton involved in that 5 discussion?</p> <p>6 A No.</p> <p>7 Q How was it that she became a part of the 8 visit?</p> <p>9 A After I decided to make a visit -- I don't 10 usually make those type of visits without HR with 11 me.</p> <p>12 Q Okay. And so at this point, the 13 discussion is between and you Mr. Watson and you've 14 invited Ms. Melton. How did you determine when to 15 go and do this?</p> <p>16 A The next time I had available, I went to 17 Estelle, and the next time Georgia had -- Ms. Melton 18 had available time, we planned the trip.</p> <p>19 Q And that turned out to be in January, mid 20 January?</p> <p>21 A I don't remember.</p> <p>22 Q 17th and 18th?</p> <p>23 A I don't remember.</p> <p>24 MS. MILLER: Or January 9th, you're 25 telling -- okay.</p>		<p>1 Q Oh. Okay. And we have a cold record here 2 and it's going to be just a plain black-and-white 3 page, but just for the record, you're Caucasian. Is 4 that correct?</p> <p>5 A Yes.</p> <p>6 Q And how about Mrs. Anderson -- 7 Ms. Anderson?</p> <p>8 A She's Caucasian.</p> <p>9 Q And how about Ms. Darby?</p> <p>10 A She's Caucasian.</p> <p>11 Q And Ms. Lauder?</p> <p>12 A She's Caucasian.</p> <p>13 Q And Ms. Moreau?</p> <p>14 A I don't know.</p> <p>15 Q And in terms of the turnover increasing, 16 how do you monitor the turnover?</p> <p>17 A By the number of people leaving.</p> <p>18 Q Okay. So that's the measure. Seems like 19 a good way to do it. How -- do you get a report? 20 Do you print a report? Do you monitor it monthly? 21 Is it an annual turnover rate? How do you look at it?</p> <p>22 A We look at it monthly. We get monthly reports, as well as annual reports.</p> <p>23 Q And that would be by facility or by</p>
	30	32
<p>1 Q (BY MS. MILLER) And how did you notice, 2 beside how -- who did you notice that you were going 3 to be making the visit?</p> <p>4 A Mr. Watson put out the notice that we 5 would be coming and...</p> <p>6 Q And was that a written notice?</p> <p>7 A He e-mailed it.</p> <p>8 Q And do you recall to whom that would have 9 been distributed?</p> <p>10 A No.</p> <p>11 Q Okay. You indicated that you had received 12 several e-mails from employees or maybe -- strike 13 that. You received e-mails. I added the "several," 14 so I'll take that back. You received e-mails from 15 employees who were unhappy. Who were those 16 employees?</p> <p>17 A Don't know that I can remember all of 18 them, but it seemed to be the nurse -- nurses in the 19 emergency room mostly.</p> <p>20 Q Okay.</p> <p>21 A I remember Ms. Anderson, Ms. Darby, 22 Ms. Lauder, and Ms. Moreau being the ones that I can 23 remember, others that I can't.</p> <p>24 Q And Moreau is spelled?</p> <p>25 A M-O-R-E-A-U.</p>		<p>1 individual manager?</p> <p>2 A By facility.</p> <p>3 Q And when Mr. Watson said he felt he had 4 done all he could, did he -- how did he communicate 5 that to you?</p> <p>6 A In a conversation on the phone.</p> <p>7 Q Okay. Was there any written 8 memorialization of that conversation?</p> <p>9 A Not that I remember or not that I know.</p> <p>10 Q And when he said, indicated to you he had 11 done all he could, what did he indicate to you that 12 he had done?</p> <p>13 A We had had multiple conversations about 14 the Estelle facility and the fact that things 15 weren't running as smoothly as he felt they should 16 and he was trying to identify where the issues were 17 to improve them and he had been unable to make 18 headway with identifying exactly where the issues 19 were.</p> <p>20 Q Okay. So what had he done? So he had 21 trouble identifying the issues. Had he done 22 anything?</p> <p>23 A Certainly he had but I don't -- you'll 24 have to ask him. I don't know.</p> <p>25 Q Okay. So you didn't ask him that.</p>

	33	35
1       A   No. 2       Q   And did you have any part in communicating 3    notice of your visit to the Estelle Unit? 4       A   No. 5       Q   When you arrived at the Estelle Unit, what 6    did you do? 7       A   Ms. Melton and I told Mr. Watson we were 8    there. We were -- found us a room, a conference 9    room, that was avail -- that was private so that 10   employees could feel like they weren't overheard. 11   And it was also not out in the hallway on a nursing 12   unit, so people -- it was down in the offices so 13   that people couldn't see, coming and going, if 14   people did not want others to know that they were 15   coming or leaving. 16       Q   And so you had a conference room. Then 17    what did you do? 18       A   We started having people come in and -- 19       Q   How was it determined who would come in? 20       A   They determined who came in. We made the 21    invite, told them we were here. 22       Q   How did you make that invite? 23       A   Through Mr. Watson's e-mail. 24       Q   So it was kind of like "We're going to be 25    here if you want to stop in"?	1       A   Still in the system. 2       Q   Another nurse -- 3       A   Still work -- yes. 4       Q   Assistant nurse manager. 5       A   Gayle McCartney. 6       Q   And who all came to your room? 7       A   I don't remember who all came. I did -- 8    Ms. Melton conducted the interviews with my -- with 9    me listening and interjecting when I had specific 10   questions, but the interviews were mostly done by 11   HR, Ms. Melton. 12       Q   Okay. But you were present during the 13    interviews. 14       A   Sure. 15       Q   All right. And so there would certainly 16    be a record of what these employees said. 17       A   She took notes. 18       Q   Okay. So there are notes of the -- 19       A   I don't know where her notes are. 20       Q   Okay. Was there any kind of form that was 21    filled out or -- 22       A   No. 23       Q   -- any specific questions that were asked? 24       A   Well, no. 25       Q   Any consistent, you know --	
	34	36
1       A   Um-hmm. Um-hmm. 2       Q   Did you contact any specific individuals 3    or initiate any conversation with specific 4    individuals? 5       A   The individuals that came. 6       Q   Other than the ones that, on their own 7    initiative, showed up, did you seek specific 8    employees to speak with? 9       A   No. 10       Q   Did Mr. Watson send specific employees for 11    you to speak with? 12       A   I have no idea. 13       Q   Okay. And what level were these 14    employees? 15       A   We had all levels of employees. We had 16    RNs, LVNs, PCAs, and I don't know if we had nursing 17    assistants or not. We had all levels of employees. 18       Q   Was there an assistant nurse manager at 19    that facility? 20       A   There were two assistant nurse managers 21    that worked for Ms. Fisher at that time. 22       Q   And who were they? 23       A   Mr. Aguilar and -- I'm losing her name. I 24    don't remember her name. I see her face. 25       Q   Another --	1       A   Nothing formal. 2       Q   Nothing formal. Okay. Were the employees 3    asked to make a statement? 4       A   I don't guess I understand. 5       Q   Were they asked to make a written 6    statement? 7       A   No. 8       Q   No. So there are no written statements 9    from the employees regarding this meeting. 10       A   No. 11       Q   These meetings. 12       A   No. 13       Q   And correct me if I'm wrong, but these 14    meetings lasted for two days or you were there for 15    two days? 16       A   We were there for two days. 17       Q   Okay. 18       A   We were there at different times those two 19    days so we could reach -- 20       Q   The different shifts. 21       A   -- and be available to the different shifts. 22       Q   See, I'm -- I did it again. I knew what 23    you were going to say. And in the Estelle Unit, 24    there were two nurse managers. Is that correct?	

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1    Ms. Fisher and another nurse manager? 2    A Yes. 3    Q Okay. And so Ms. Fisher was a nurse 4    manager over some of the employees, and who was the 5    other nurse -- 6    A Most of the employees. 7    Q Most of the employees. And do you recall 8    how many nurse -- how many employees reported to 9    Ms. Fisher? 10   A No. 11   Q Do you recall who the other nurse manager 12   was? 13   A Joyce Bonds. 14   Q Joyce Bonds? 15   A And she was over the geriatric center. 16   Q Do you recall how many employees reported 17   to her? 18   A Very few. The geriatric center was only 19   staffed 12 hours a day, it was not staffed at night, 20   and it was a very small -- it's a very small 21   facility. 22   Q Okay. So there was some conversation 23   yesterday that Ms. Fisher had 42 employees that 24   reported to her? 25   A (Moving head side to side)	1    A I don't know. 2    Q Well, was there a time you left this 3    conference room, this private conference room? 4    A Oh, sure. Sure. We -- 5    Q And actually spoke to Mr. Aguilar out in 6    the facility; didn't you? 7    A It's possible. 8    Q Did you speak to anyone other than 9    Mr. Aguilar out in the facility? 10   A Not that I recall. 11   Q And did you go to the facility where Joyce 12   Bonds was in charge of that particular facility? 13   A No. And I did not go to the building that 14   Ms. Fisher was in charge of, also, and I did not go 15   out to the high security that she's in charge of, 16   also. I stayed only in the one facility. 17   Q Okay. And what facility was that? 18   A The RMF, the regional medical facility. 19   Q And is that where Mr. Aguilar worked? 20   A I don't know where she had him assigned. 21   Q Okay. And maybe I asked you this but if I 22   didn't -- and did you personally seek out anyone 23   other than Mr. Aguilar? 24   A No. 25   Q Okay. So you had a conference room. You	
	38	40
1    Q You wouldn't have any reason to doubt 2    that. 3    A I wouldn't have any reason to doubt that. 4    Q How many employees came and spoke to you? 5    A I don't remember exactly. It's been four 6    years ago. I don't remember how many came. 7    Q But certainly we could check Ms. Melton's 8    notes to be sure. 9    A If you know where they are, yeah. 10   Q And of the employees that came to visit 11   you, were any of those employees ones that reported 12   to Joyce Bonds? 13   A I don't think so. 14   Q And do you know if her employees received 15   the invitation? 16   A No. I understand it was sent to them, but 17   I -- 18   Q But you don't know. 19   A I don't know. 20   Q Did you walk through the facility while 21   you were there? 22   A No. 23   Q And did you speak to Mr. Aguilar? 24   A Yes. 25   Q And where did you speak to Mr. Aguilar?	1    had these people. People came and talked to you. 2    What else did you do while you were there? 3    A I have no idea. Don't remember doing 4    anything else. It felt like we were in that 5    conference room a long time. 6    Q Did you, at any time, try to interview 7    Ms. Fisher and get her side of the story? 8    A She was not there. She was out on 9    bereavement and we knew we would have to get her 10   when she got back, we would have to discuss with her 11   when she got back. 12   Q So you went there knowing she wasn't going 13   to be available. 14   A Yes. We went there the soonest time we 15   had available and did not know she was going to be 16   out at that time. 17   Q When did you get with Ms. Fisher to 18   discuss her side of the story and her concerns? 19   A It was sometime shortly after that. 20   Q And how did you approach that? 21   A I don't remember. I don't remember if she 22   called us or we called her, but we did set up a time 23   to meet with her and did meet with her to hear her 24   side of the story. 25   Q And do you recall where you met with	

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1	Ms. Fisher?	1	A Her side was that she felt like she was
2	A I believe it was at the facility.	2	doing everything she should as a nurse manager, that
3	Q Okay. And was Ms. Melton with you again?	3	she was making some changes that the staff were
4	A I don't remember.	4	resisting, and they weren't being as cooperative as
5	Q And this conversation that you had, I'm	5	they could be, that she felt like she was
6	going to go back just a minute. Ms. Anderson,	6	approachable. She did agree that her communication
7	Ms. Darby, Ms. Lauder, and Ms. Moreau that we spoke	7	sometime can be sharp and she would -- she agreed
8	with earlier, they're the ones that wrote the	8	that that could happen and she would improve in
9	e-mails?	9	that, improve on that, and that she would
10	A They're some of them.	10	communicate less with e-mail and more in person and
11	Q Wrote some of the e-mails?	11	that she would communicate more in general with her
12	A (Moving head up and down)	12	staff.
13	Q That precipitated the on-site visit?	13	Q Anything else?
14	A I had also gotten e-mails from	14	A Not that I know of.
15	Mr. Aguilar.	15	Q Okay. And the specific examples of
16	Q And among Mr. Aguilar, Ms. Anderson,	16	discontent that you shared with her, do you recall
17	Ms. Darby, Ms. Lauder, Ms. Moreau, are any of those	17	what those were?
18	still working for UTMB?	18	A Exactly who said what, no, but one of the
19	A Mr. Aguilar still works for UTMB.	19	specific examples were that someone got to come and
20	Q Okay. He does?	20	go when they wanted in the facility. There was some
21	A Uh-huh.	21	favoritism. They claimed favoritism, that it was
22	Q In the TDC facility?	22	one of her favorites, and that they would allow her
23	A Uh-huh. At the Skyview facility.	23	to work where she wanted to in the facility when she
24	Q At the Skyview?	24	wanted to. One of the other examples was she had
25	A At the Skyview facility.	25	moved some equipment in the emergency room and had
	42		44
1	Q But Ms. Anderson, Darby, Lauder, and	1	failed to communicate well with -- or the perception
2	Moreau are no longer there.	2	from the ER nurses were that she failed to
3	A I don't know about Ms. Moreau. I know the	3	communicate well with them the changes that were
4	others are not.	4	made and where they were. I saw that as an at-risk
5	Q And, in fact, the others complained about	5	opportunity for ER nurses to not feel like they knew
6	their subsequent managers to you; didn't they?	6	where equipment was in the emergency room. So that
7	A Subsequent manager?	7	was a specific example that I gave her, as well.
8	Q After they no longer reported to	8	Q Okay. Anything else?
9	Ms. Fisher, they didn't like the next one that came	9	A No. Not that I remember.
10	along either; did they?	10	Q And was this meeting just you and
11	A I don't -- I have not had reason to	11	Ms. Fisher --
12	believe that, that -- Ms. Upshaw may. The person	12	A I believe so.
13	that's their direct supervisor may. And I know they	13	Q -- or was anybody else present?
14	went through some disciplinaries with Ms. Upshaw.	14	A I believe so. If anybody else was there,
15	Q When you had the meeting with Ms. Fisher	15	it was Ms. Melton, but I don't remember.
16	on -- how did that go? Describe that.	16	Q And you indicated you had developed a --
17	A I felt like I gave her a fair	17	you said you developed a plan for Ms. Fisher and her
18	summarization of what I had been -- what I had heard	18	staff?
19	from the employees. I tried to give some specific	19	A Yes.
20	examples included in that instead of just general	20	Q And would -- that plan was in writing?
21	summarization. And I listened to her side, let her	21	A Yes.
22	tell me what she thought was correct and incorrect	22	Q And you developed that personally?
23	and why, and then I told her that we'd be putting	23	A With the help of Ms. Melton.
24	together a plan for both her and the staff.	24	Q Okay. And did Mr. Watson have any input
25	Q What was her side?	25	in that?

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1	A No.	1	Q Okay. So it is possible to overlap that?
2	Q And how was that communicated?	2	A Yes.
3	A I met with Ms. Fisher and the staff	3	Q All right. And you communicated to
4	members.	4	Ms. Fisher, as well as her staff, the expectations
5	Q And do you recall when that was?	5	you had for her. Is that correct?
6	A No.	6	A Yes.
7	Q Are these called expectations? Is that --	7	Q Okay. Have you ever done that to another
8	A That's what I call them.	8	staff member where you've communicated their
9	Q Is that what you call them?	9	expectations to their subordinates?
10	A That's what I call them.	10	A Yes.
11	Q And when you receive an expectation, is	11	Q And on what occasion have you done that?
12	that -- that's a need for improvement; isn't it?	12	A I've done that in the Gatesville district,
13	A Sure.	13	as well.
14	Q Okay. In other words, saying a need for	14	Q And when was that, that you did that?
15	improvement, essentially, "Here's some	15	A I do not remember when. That's not an
16	expectations," and the implication is "You're not	16	unusual way to approach a problem when there's
17	meeting them"?	17	issues between two sets of people.
18	A Or that you could improve.	18	Q Okay. But is the Gatesville the only
19	Q Or you could improve. Okay. All right.	19	other incident you can recall that you did that?
20	So essentially that was -- it was a reprimand?	20	A On that large of a scale. Very often I
21	A No.	21	have put together two groups of people, sometimes
22	Q Okay. It would be a coaching in -- in the	22	from two facilities, where they were having trouble
23	free world, they call it coaching?	23	with continuity of care or something between two
24	A You might consider it a coaching, yes.	24	facilities and we meet with the two groups and the
25	Q Okay.	25	expectations of one and the expectations of the
	46		48
1	A It was...	1	others.
2	Q And how did -- you said you communicated	2	Q Okay.
3	this to Ms. Fisher and her staff, and that was a	3	A That's not an unusual management tool to
4	group meeting?	4	use.
5	A Yes.	5	Q But in that particular instance, there
6	Q How was that -- did that meeting come	6	were not superior supervisor and subordinate
7	about?	7	relationship. That would have been an equal
8	A I planned it and they came. What do you	8	relationship. Right?
9	mean, how did it come about?	9	A In that particular one.
10	Q How were they noticed?	10	Q Okay.
11	A I e-mailed them, I do believe. I don't	11	A There are others that were not that also
12	remember.	12	had supervisors.
13	Q The entire staff?	13	Q And can you think of any other examples
14	A Yeah.	14	for me?
15	Q All 42 people. How many people showed up?	15	A The Gatesville example.
16	A I don't remember.	16	Q Okay. And besides the Gatesville example?
17	Q What did their -- would you have had a log	17	A No.
18	of that particular meeting, employee log, to show	18	Q Okay. So you communicated your
19	who attended?	19	expectations of Ms. Fisher to her staff. What were
20	A I don't think so.	20	those expectations?
21	Q Okay. And did you have two different	21	A Pretty much what I've already just
22	staffs -- staff meetings to cover the different	22	answer -- what I just told you I told Jackie her --
23	shifts like you did --	23	the issues were. To e-mail less, she would be
24	A Yeah. Well, and I had it -- I had it at a	24	communicating more directly, that she would be
25	time where both could come.	25	having staff meetings on a regular basis to

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1	communicate with them. If things were going to be 2 moved, that I expected her to get input from them, 3 so would they please be cooperative in giving her 4 input for things -- for changes that she made of 5 that nature. It was the things I said earlier.	1	Q Okay. Well, that wasn't my question. I'm 2 going to go back here a minute. You had 3 expectations for Ms. Fisher, you had expectations 4 for the employees, and did both of them have a 5 90-day review --
6	Q And you don't consider that a public 7 reprimand?	6	A Um-hmm.
8	A No.	7	Q -- tagged to it?
9	Q What did you convey to the employees that 10 they needed to do, their expectations? I'm sorry.	8	A Um-hmm.
11	A Their expectations were that they had a 12 new nurse manager that was going to be doing things 13 differently, and I expected that they be cooperative 14 with her, that they work with her to develop those 15 plans, as requested, that they be flexible in their 16 scheduling and where they were told to work. They 17 were being quite inflexible and they weren't wanting 18 to go to the different areas and cross-train, and 19 that was one of our goals. So I told them that they 20 needed to be more flexible with their scheduling, to 21 follow their chain of command, that when they had 22 issues, they needed to come to Jackie. That's all I 23 remember.	9	Q And how did you review Ms. Fisher in 90 10 days?
24	Q Okay. And Ms. Fisher's were written down. 25 Were the employees' expectations also written down?	11	A I didn't. She was not at the Estelle Unit 12 anymore in 90 days.
1	A Yes.	13	Q So what happened in the interim?
2	Q And each one received a copy of that, was 3 distributed a copy of that?	14	A She was given her -- it was decided that 15 the situation was very polarized and that there was 16 no way of retrieval at that particular facility and 17 the decision was made to demote Ms. Fisher.
4	A I believe so. I believe I had copies that 5 day.	18	Q Okay. So just so I'm clear on the 19 sequence of events, she was given a 90-day 20 expectations but, yet, she was demoted before she 21 was allowed to complete that 90-day expectations.
6	Q Do you think so or you don't know --	22	A Yes.
7	A I don't know.	23	Q And what about the employees that were 24 given expectations? How did you follow up with 25 them? Just let that dissolve?
	50		52
1	A Yes.	1	A I did.
2	Q And each one received a copy of that, was 3 distributed a copy of that?	2	Q Okay. Of the 42 employees that reported 3 to Ms. Fisher, how many of them were African 4 American/black?
4	A I believe so. I believe I had copies that 5 day.	5	A I have no idea.
6	Q Do you think so or you don't know --	6	Q You keep that information somewhere, 7 though; don't you?
7	A I don't know.	8	A HR keeps that information. I don't at 9 all.
8	Q -- for sure?	10	Q But it is available.
9	A I don't know for sure.	11	A I would guess so. I don't keep it.
10	Q Okay.	12	Q But when you looked at the cross-section 13 of employees that sat there during your meeting 14 where Ms. Fisher was given her expectations and the 15 employees were, lot, a few, not very many, half, a 16 third?
11	A I sat down with the group and had a long 12 discussion and told them both.	17	A Have no idea. Don't even remember who 18 came. I remember what I told them but I don't 19 remember who was there.
13	Q Okay. What about the ones that might not 14 have been at the meeting?	20	Q So we still don't know that all employees 21 got those expectations.
15	A Then I didn't talk to them.	22	A No. All employees didn't have any kind of 23 complaint and many didn't come and weren't 24 interested.
16	Q Okay. And how were they communicated 17 their expectations?	25	Q Okay. But even if they didn't complain,
18	A I have no idea.		
19	Q And was there any kind of a follow-up that 20 was requested?		
21	A There was going to be follow -- the plan 22 was to follow it in 90 days.		
23	Q And what happened in 90 days?		
24	A By that time, other things had already 25 happened.		

	53		55
1	they were still invited.	1	A No.
2	A Yes.	2	Q Did she have any expectations as a result
3	Q Okay. I think we talked about turnover	3	of this on-site visit?
4	rates but I think there were also vacancy rates that	4	A No.
5	were discussed. What are vacancy rates?	5	Q All right. Then you said that there was
6	A Vacancy rate is how many vacancies you	6	no need for the 90-day review because Ms. Fisher was
7	have in comparison to how many appointed positions	7	demoted. Tell me how that happened. Here you've
8	you have, how many filled and how many vacant	8	given an employee a 90-day window to improve. Had
9	positions you have.	9	she ever had expectations given her before, if you
10	Q And turnover has always been a problem at	10	know?
11	UTMB/TDCJ; hasn't it been?	11	A I don't know.
12	A I don't know.	12	Q Okay. But these were from you. Correct?
13	Q Since you've been there, since you've been	13	A Yes.
14	the director of nursing.	14	Q All right. So you gave her 90 days to
15	A It is something we've focused on, yes.	15	improve but, yet, in the interim, things, you
16	Q Okay.	16	indicated, changed or you made a different decision
17	A Made much improvement.	17	and went another direction. Tell me what happened.
18	Q Okay. And is it fixed?	18	A There was some urgency at Estelle because
19	A Turnover will never be fixed.	19	of the staffing, the numbers of vacancies, the
20	Q Okay.	20	numbers of people that were leaving, and the numbers
21	A It's not fixed nationwide.	21	of people that were complaining. Because it is an
22	Q So it's an ongoing problem.	22	acute care regional medical facility, there's some
23	A (Moving head up and down)	23	urgency to the flow of that facility because it is
24	Q All right. How about vacancy rates?	24	also a transient facility where lots of people come
25	A Vacancy rate is also an issue.	25	and stay, going to and from different facilities.
	54		56
1	Q Okay. And you told me that you monitored	1	And the urgency became very evident that we were
2	the turnover rate on a monthly basis?	2	having much difficulty staffing and it was beginning
3	A Um-hmm.	3	to affect patient care.
4	Q How about vacancy rates? How did you --	4	Q Okay. And when you say it became evident,
5	did you do the same thing for that?	5	did you do more investigation or this was slopover
6	A Yes.	6	from the first investigation?
7	Q And there is a report printed on that?	7	A We didn't do a separate investigation.
8	A Yes.	8	Q What other facts did you learn after you
9	Q And so you could compare the vacancy rates	9	gave her a 90-day improvement plan that caused you
10	of the different facilities?	10	to make a decision to not permit her to improve
11	A Yes.	11	during those 90 days?
12	Q So you would have a historical picture	12	A The human resources department also played
13	when you made comments like higher turnover rates or	13	a big role here. They went back and reviewed notes
14	higher vacancy rates than other facilities. You	14	and reviewed some of those interviews and it was
15	would be able to back that up with statistics. Is	15	with their help and with their direction that I
16	that correct?	16	planned the demotion.
17	A I don't know how long those records are	17	Q Okay. So just so I'm clear on what you
18	kept.	18	just indicated, the HR -- HR went back and pulled
19	Q Well, at the time, you would have been	19	the -- started reviewing the information that had
20	able to.	20	already been acted on. Is that correct?
21	A Yes.	21	A They relooked at the interviews.
22	Q Okay. So did you meet with Joyce Bond as	22	Q They relooked at the information that
23	you did with Ms. Fisher?	23	you'd already spelled out her expectations for.
24	A No.	24	A (Moving head up and down)
25	Q After the investigation on site?	25	Q Okay. So did an investigation -- I'm just

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1	trying to understand the sequence here. You did an investigation, you came to a conclusion, gave her some expectations, you gave her 90 days to improve, and then you went back behind that 90-day improvement expectations and said, "Oh, no. We're going to do it worse." Right? "We're essentially not going to give her a chance to improve. We're going to demote her." Is that what happened?	1	A No.
2	Strike that. Let me ask another.	2	Q -- of the several?
3		3	A No.
4		4	Q Okay. And did they tell you that in
5		5	person or --
6		6	A It wasn't always just to me. Some of it
7		7	was to human resources, to Ms. Melton.
8		8	Q Okay. And the continued complaints, who
9		9	did those come from?
10	What other facts that you learned that you didn't know when the expectations were given?	10	A Various employees, and they were, again, to Ms. Melton, as well as myself.
11		11	Q Okay. But you -- do you recall any of the names?
12		12	A No.
13	A I just told you, the urgency. Estelle was failing.	13	Q And then the vacancy rates, that's a matter of historical data. Right?
14		14	A It's -- okay.
15	Q Okay.	15	Q Well, I'm asking you.
16	A Estelle was not --	16	A It's an ever-changing number.
17	Q That's a concept but those aren't facts.	17	Q Okay.
18	What facts showed you the urgency that Estelle was failing?	18	A Okay.
19		19	Q But historically you can look at the
20	A The number of complaints continued. The number of people that planned to leave, the number of staffing vacancies that were remaining uncovered, making it dangerous for the patients, caused the urgency.	20	vacancy rates and see if the Estelle Unit indeed was worse than the other units.
21		21	A Yes.
22	Q Okay. So the number of complaints. These	22	
23		23	
24		24	
25		25	
	58		60
1	were new complaints that you received --	1	Q Okay. And it's your testimony that the
2	A That continued, yes.	2	vacancy rates at Estelle continued to be worse than
3	Q -- after -- okay. So -- but they were --	3	the other units?
4	you received new ones after you gave her the 90-day expectation.	4	A No.
5	A Nothing seemed to settle.	5	Q Okay.
6	Q Well, that wasn't my question.	6	A That they continued to -- the vacancy rate
7	A Yes.	7	continued to increase and the turnover continued. I
8	Q Okay. You received complaints that you	8	never said it was worse than anywhere else.
9	hadn't acted on previously.	9	Q All right. Did any other nurse managers
10	A There were continued complaints, yes.	10	get reprimanded or demoted for vacancy rates or
11	Q Okay. And people were planning to leave.	11	turnovers that were high?
12	What? Are people calling you up, saying, "I'm going to -- I'm going to quit if you don't fire her"?	12	A No. Not in -- to my knowledge. Not in my
13	A That was what the -- they were saying.	13	division.
14	Q And these are subordinate employees	14	Q Okay. After she received this 90-day
15	that -- and you're listening to them threaten to	15	improvement plan of expectations and you continued
16	leave. Is that correct?	16	to have some concerns, did you review any of those
17	A They didn't say -- they did not say that	17	with her?
18	they were going to leave if I didn't fire her. They	18	A No. She was out.
19	said they had plans to leave.	19	Q Okay. So she was out on medical leave?
20	Q Okay. Who said that?	20	A Yes.
21	A There were several. I don't remember who	21	Q This is when her son had surgery?
22	all they were.	22	A Yes.
23	Q Can you think of any --	23	Q All right. How can you improve if you're
24		24	not even there to do it?
25		25	A I don't know what you want me to say.

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1	Q Well, I'm just questioning. If you gave 2 her 90 days to improve and she wasn't there, how 3 could she have failed?	1	Q Okay. And you've had a chance to review 2 what's been marked as Exhibit Number 1 and I'm going 3 to -- as I represented to you, this is Mr. Batista's 4 representation of what you told him. Is there 5 anything that's not correct in here that you'd like 6 to correct?
4	A She's still responsible for the facility. 5 I mean, her -- she is the nurse manager of the 6 facility and has assistant nurse managers that she 7 works through to make sure the facility continues 8 to --	7	MR. LIVELY: I'm going to object to 8 this and the fact that it's unauthenticated, 9 unsigned, and undated, but I'll just ask that 10 objection for this running question, but you can go 11 ahead.
9	Q Okay. So even though she was out on 10 medical leave and wasn't in the facility to work on 11 her 90-day improvement, she was still demoted, based 12 on the continuing concerns you had.	12	MS. MILLER: Sure.
13	A Yes.	13	THE WITNESS: Who's Mr. Batista?
14	MS. MILLER: Okay. Can we take a 15 little break? It's 11:30.	14	Q (BY MS. MILLER) He's the EEOC 15 investigator. Is there -- well, looking at this, is 16 there anything you want to change today that isn't 17 right about what you -- what is represented here?
16	MR. LIVELY: Sure.	18	A Well, I certainly don't remember to this 19 level of detail because this was apparently done a 20 number of years ago, but I don't think I ever said 21 anything about -- on the last paragraph on the first 22 page that talks about (as read) "She thought the 23 offense was serious to be warranted more than a 24 simple verbal warning. She went on to say there is 25 nothing in her file other than a write-up, which was
	62		64
1	(Exhibit 1 marked)	1	simply meant to get her attention." I don't 2 remember saying that. I don't know --
2	Q (BY MS. MILLER) Okay. Thanks. I'm going 3 to show you what's -- maybe. What's been marked as 4 Exhibit Number 1.	3	Q Are you on page 200691 now --
5	MS. MILLER: And I only have one set. 6 I'm sorry, guys.	4	A Yes.
7	Q (BY MS. MILLER) And give you a chance to 8 read that and I'm going to represent to you that 9 this came out the EEOC investigation and is a recap 10 from the EEOC investigator of his interview with 11 you, and I want to make sure that you're a hundred 12 percent comfortable with what he thought you were 13 saying about this case. So if -- read it carefully 14 and if there are any -- is anything you need to 15 correct or change as to what you told the 16 investigator that he didn't quite get right, I'd 17 like to have that corrected at this point.	5	Q -- at the bottom of the page? Okay.
18	A I don't know that I've seen this document.	6	A I don't -- I don't remember the dates, but 7 if those were the dates that I told him, that's -- 8 and like I said, some of the details I don't 9 remember.
19	MR. LIVELY: Go ahead and read it.	10	Q Okay. Can you -- help me out here. 11 Specifically -- because I'm not trying to put words 12 in your mouth and I just -- if you can't verify it, 13 that's fine.
20	THE WITNESS: And --	14	A Well, I don't -- I don't know that I --
21	Q (BY MS. MILLER) Yeah, you probably 22 haven't seen it unless you reviewed all of the 23 things we disclosed, or it might have even come from 24 your EEOC files.	15	"Ms. Gotcher said she told" -- "was told by the 16 employees that Ms. Fisher did things along racial 17 lines or that there were security issues with the 18 way she approached the job." I don't remember that 19 piece. The equipment change piece I talked to you 20 about earlier.
25	A I've finished the document.	21	Q Yes. Independently, were there racial 22 complaints made about Ms. Fisher, if you recall?
		23	A I don't recall.
		24	Q Okay.
		25	A And so it's some of those kind of details.

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1	Q All right. Keep going. You're fine.	1	don't know where that came from but I think there is
2	That's exactly what I need you to do, other things	2	something in -- or was something in some of the
3	that you can't verify or are not able to verify	3	notes that was -- one of the employees said
4	today.	4	something but I don't -- okay.
5	A I don't remember anything about Reagan and	5	Q All right. Thank you. Now, at some
6	Brantley, Ms. Reagan and Brantley. I had said	6	point, there was a peer review set up for
7	something to you earlier about Ms. Darby,	7	Ms. Fisher. Are you aware of that?
8	Ms. Lauder, and Ms. Anderson, but I don't remember	8	A Yes.
9	Reagan or Brantley.	9	Q Tell me, just in general, what is a peer
10	Q Okay. And you're still on page 691 of	10	review?
11	Exhibit 1.	11	A The Board of Nursing requires that you
12	A Yes. And when it says, "Ms. Gotcher gave	12	have a peer review committee that delineate the
13	Ms. Fisher a letter of expectations," it makes it	13	rules and regulations, the proceedings, the makeup
14	sound like it was a separate letter. It was the	14	of the peer review committee, how many RNs and LVNs
15	summarization of the -- of the report that -- and I	15	there will be on the committee, and we have a
16	don't know that Ms. Fisher disagreed with it at that	16	nursing peer review committee. The board also
17	time.	17	regulates that anyone can refer to the peer review
18	Q Okay. You don't recall that.	18	committee and it is the peer review committee's job
19	A Hmm-um.	19	to decide whether an incident that's turned in to
20	Q But there was a time she did disagree with	20	them is a minor incident under their specified rules
21	the expectations?	21	or whether it is a major incident that needs to be
22	A I don't know that she thought they were --	22	reported further to the board.
23	I don't know.	23	Q Okay. How are the members for a peer
24	Q Okay.	24	review committee selected?
25	A I don't --	25	A They're selected by the district nurse
	66		68
1	Q All right.	1	managers, recommendations, and put on a committee
2	A Not to -- not to me, no. And I don't	2	for -- I think it's a two-year term that they're put
3	remember speaking with John Pemberton about the case	3	on. I think that's what our rules now say. And
4	at all. I talked to Georgia Melton but not John	4	it -- they add new members and rotate members as
5	Pemberton.	5	necessary.
6	Q And that's page 692 of Exhibit Number 1?	6	Q So it would be a staggered, always
7	Is that the page to which you're referring?	7	somebody with experience --
8	A Yes, ma'am.	8	A Always somebody.
9	Q Thank you.	9	Q -- as the new ones rotate in? Okay. And
10	A I don't remember anything.	10	the district managers are the ones that select them?
11	Q On page 692?	11	A They recommend the selection.
12	A With Dr. Vincent.	12	Q Okay.
13	Q Okay.	13	A And Mr. Eubank and I approve the final
14	A I saw some -- I saw him talk with	14	selections.
15	Dr. Vincent, but other than that, I don't remember	15	Q Okay. So the peer review would be -- and
16	anything.	16	what would you look for in selecting someone to
17	Q So it wouldn't be your position today that	17	serve on the peer review committee?
18	there was some intimacy of Ms. Fisher having an	18	A When I -- when they make a recommendation
19	inappropriate relationship with Dr. Vincent?	19	to me, I look at their years of experience with the
20	A I think there was a report to that in one	20	organization. Of course, we have to look at whether
21	of the notes that Ms. Melton took, that one of the	21	or not they're RN or LVNs because you have to have a
22	employees said, but I never said it and I -- we	22	certain representation from each group on the
23	never verified any of those.	23	committee. And I look at their availability with
24	Q Okay. Okay.	24	the unit that they're working. If the unit is
25	A So I don't -- that didn't come from me. I	25	really one that has a high vacancy rate and is

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1	short-staffed, then we might not choose a nurse from 2 that particular facility because I want them to be 3 available to hear testimony and come to the 4 meetings.	1	but normally they hear everything that's referred to 2 them.
5	Q Okay. So when you select them, do you 6 look at their experience and their reputation in 7 UTMB or --	3	Q Okay. So your answer is, yes, it is 4 discretionary?
8	A They are -- they are not under 9 disciplinary action and have not had, yes.	5	A Yes.
10	Q You want good employees with good 11 knowledge.	6	Q Okay. You said it could come from the 7 morbidity committee? Tell me --
12	A Yes.	8	A Yeah.
13	Q All right. And you think they serve for 14 two years?	9	Q -- what that is.
15	A I think that's what they serve now.	10	A It's a joint mortality and morbidity 11 committee that is a committee that is required 12 through TDCJ. It has members that are from TDCJ, 13 Texas Tech, and UTMB on the committee. We review 14 all deaths on all the -- in all the entities, Texas 15 Tech and UTMB, and we specifically look for -- I am 16 part of that committee. We specifically look for 17 things we could have done better, improved, care 18 could have been improved upon, something that didn't 19 happen to the standard that we had hoped that it 20 would. And they then refer -- they then just accept 21 cases or can refer them to many places. They refer 22 them to nursing peer review, medical peer review. 23 Psychiatric has a whole another way they do theirs 24 but with committee review. And they could even 25 refer it to security for -- if it's a security
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1	report to the directors of nurses and they 2 ultimately report to the directors of the 3 organization, is who the peer review reports to.	1	issue, or a systems problem.
4	Q Okay. So do you -- how would a peer 5 review come about?	2	Q Okay. When you say they -- are they a 3 referral committee? Is that what happens?
6	A Can come about many different ways. 7 Anyone can refer -- the board says that anyone can 8 refer an instance or a case or a nurse to the peer 9 review committee.	4	A Yes. Yes. They don't -- they don't --
10	Q Okay.	5	Q And must they refer something?
11	A And they come about various ways in our 12 system. They come through TDCJ when they've 13 investigated and find a complaint or from the 14 mortality/morbidity committee that is part of TDCJ. 15 They can come from nurse managers who feel like 16 there's been a serious incident on their -- on their 17 facility. And another -- any other nurse, any 18 nurse, has the capability of requesting a peer 19 review.	6	A No.
20	Q Is it discretionary or must the peer 21 review investigate once there's been a referral 22 made?	7	Q Okay. So they're a review committee with 8 referral potential?
23	A The peer review can look at the case and 24 decide whether they're going to hear the case or 25 not, whether it's even a peer review case or not,	9	A Yes.
	70		10
1	Q But their main mission is not to refer.	11	A Their main mission is to look at the case.
2	Q Is to evaluate. Is that correct?	12	Q Is to evaluate. Is that correct?
3	A Yes.	13	A Yes.
4	Q All right. Now, you know that Ms. Fisher 5 had a referral to peer review during the time that 6 some of the other issues were happening. You're 7 aware of that.	14	Q All right. Now, you know that Ms. Fisher 15 had a referral to peer review during the time that 16 some of the other issues were happening. You're 17 aware of that.
8	A Yes.	18	A Yes.
9	Q Can you tell me the circumstances under 10 which that was referred to peer review?	19	Q Can you tell me the circumstances under 11 which that was referred to peer review?
11	MR. LIVELY: I think I'm going to 12 object to this. It's getting into privileged matter 13 and instruct the witness not to answer.	20	MR. LIVELY: I think I'm going to 14 object to this. It's getting into privileged matter 15 and instruct the witness not to answer.
12	MS. MILLER: The referral.	21	MS. MILLER: The referral.
13	MR. LIVELY: If you want --	22	MR. LIVELY: If you want --
14		23	
15		24	
16		25	

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<p>1 MS. MILLER: The only thing that's 2 objectionable is the actual -- the report. 3 MR. LIVELY: Can you go -- 4 MS. MILLER: Can we go off the record 5 just a minute? 6 MR. LIVELY: Yeah. 7 (Discussion off the record 8 from 12:54 to 12:55) 9 Q (BY MS. MILLER) Now, you're aware that 10 Ms. Fisher was referred -- or her actions were 11 referred to a peer review committee. 12 A Yes. 13 Q And what procedure happened or how did the 14 procedure stages follow that the actual referral was 15 made to the peer review committee? I'm not asking 16 you what was referred. 17 A At that time in the organization when she 18 was -- when that referral was made from mortality/ 19 morbidity, all nursing referrals from mortality and 20 morbidity committee were heard -- that were referred 21 to the nursing peer review committee were heard by 22 nursing peer review. 23 Q Okay. That wasn't my question. Going to 24 the mortality committee, that's standard practice 25 when an inmate passes away or an individual passes</p>	<p>1 not well-versed in all the duties of a utilization 2 review nurse, so they requested an ad hoc committee 3 member to provide them with the knowledge and 4 specific knowledge about that particular -- the 5 particular processes that go on there. 6 Q Okay. And in all cases, that ad hoc 7 member would be a nurse, though. Is that correct? 8 A Not always. 9 Q So the peer review can have a committee 10 member that's not a nurse? 11 A Not a committee member. It can have an 12 ad hoc information kind of person. We can have a 13 pharmacist to help us. We could have a respiratory 14 therapist come and give information to the 15 committee. You can have others that there -- 16 Q So that would be a -- I'm sorry. 17 A So you could have others. There are -- 18 there's a chair person for the committee that is a 19 registered nurse that is a voting member of the 20 committee and then there's usually some sort of 21 facilitator that is there -- not a voting member, 22 that is there to help facilitate gathering of 23 information, copying of paperwork, making sure the 24 stuff gets done, the flow of medical records to the 25 committee members, that they need to see. It's a</p>	
<p>1 away under the care of UTMB. Is that correct? 2 A Or Texas Tech? 3 Q Or Texas Tech. Correct? 4 A Yes. 5 Q All right. So is it -- in Ms. Fisher's 6 case, was her case referred by the mortality 7 committee to the peer review? 8 A Yes. 9 Q And was then the option of whether or not 10 to review it became a peer review option, to accept 11 it or not? 12 A Yes. 13 Q Okay. And in the peer review process, who 14 is permitted to be in the peer review meetings? 15 A There's no rules and regulations about who 16 can be in the room. There are rules and regulations 17 about who serves on the committee as a -- as a 18 committee member and who's -- who can vote in the 19 decision. The peer review committee often has 20 people in the room that can provide knowledge to the 21 peer review committee, members that need additional 22 knowledge. Ad hoc members are allowed in the peer 23 review committee for -- as an example, a utilization 24 review nurse was referred to the peer review 25 committee and the nurses in -- on the committee were</p>	<p>1 person that just facilitates the setup of getting 2 what the committee members need. They -- 3 Q But they're not a committee member. 4 A But they're not a committee member. 5 Q Okay. Who was the facilitator in 6 Ms. Fisher's case? 7 A At that time, it was David Watson. 8 Q Was he an ad hoc member also? 9 A No. He was a -- he was just a 10 facilitator. 11 Q And the facilitator, is that -- is that 12 outlined in the Board of Nursing regulations that 13 that's permitted? 14 A It's not said that it's denied. 15 Q Well, that wasn't my question. Is it 16 outlined that it's permitted? 17 A Not specifically. 18 Q Okay. And let's go back to the mortality 19 committee. Their referral does not go directly to 20 the peer review committee; does it? 21 A It doesn't now. It did at that time. 22 Q Well, isn't it true that the referral went 23 to you and you're the one that made the decision to 24 send Ms. Fisher's case to the peer review committee? 25 A No.</p>	76

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1	Q That's not correct?	1	indicate to her that what she did or how she
2	A No. They do send them all to me. They	2	conducted herself during and after that incident was
3	copy me, but they all -- at that time, all of them	3	inappropriate or not according to guidelines?
4	went to the peer review committee for mortality	4	MR. LIVELY: I'm a little --
5	review.	5	MS. MILLER: Did you -- did I lose
6	Q And was that a standard procedure	6	you?
7	somewhere?	7	THE WITNESS: I don't know that I
8	A It was because the paper -- the referral	8	understand what you're asking.
9	says that it is a referral. The paper from the	9	MS. MILLER: Okay.
10	mortality and morbidity committee says that it is a	10	MR. LIVELY: Yeah. I didn't hear.
11	referral to the -- they want it to be referred to	11	Are you talking about from a peer meeting or --
12	the nursing peer review committee. The language on	12	MS. MILLER: No. I'm saying
13	most forms has since changed, at my request. I	13	immediately upon it happening.
14	can't tell you exactly when it happened, but I	14	MR. LIVELY: Okay. From the UTMB,
15	requested that the mortality and morbidity committee	15	Ms. Gotcher --
16	reword that to ask for it to be reviewed,	16	Q (BY MS. MILLER) From the day of the
17	administratively reviewed, for possible referral to	17	suicide that Ms. Fisher was involved in, treating
18	the peer review committee.	18	this patient, what, if anything, was done to provide
19	Q And you don't know when that changed?	19	her with expectations, consult with her about how
20	A I don't know when that changed.	20	she might have handled things differently, review
21	Q Okay.	21	her -- how she -- her conduct? What was done during
22	A But it was not at that time. At that	22	the time frame immediately after the incident?
23	time, they were still all going.	23	A At that time, Mr. Watson was responsible
24	Q And where could we find that information	24	for upholding the standard of performance and
25	if we needed to verify that?	25	practice on the facilities. I don't think he
	78		80
1	A I have no idea. Mr. -- Dr. Kelly is over	1	thought at any point in time that that was -- there
2	the -- and I don't know when I requested that	2	was any disciplinary need or any remediation that
3	change. We did it because of the numbers of cases	3	needed to be done with that incident. Deaths are
4	and some of the small cases that were going to peer	4	reviewed, so I know that the death was reviewed and
5	review. Now, peer review always had the capability	5	at that time he didn't find -- he found no nursing
6	to -- once a case was referred to them, to say that	6	issues that needed to be reviewed.
7	it was not -- it didn't meet their criteria for	7	Q Okay. And how about yourself?
8	referral.	8	A I didn't review it.
9	Q On how many other cases was Mr. Watson the	9	Q Okay. And --
10	facilitator for?	10	A I knew there was a death and he told me
11	A Many. He was the facilitator for the peer	11	there were no nursing issues. That's what's
12	review committee for several years. I did it for	12	reported to me at my level.
13	several years before I became the director and he's	13	(Exhibit 2 marked)
14	done it for several -- he did it for several years	14	Q (BY MS. MILLER) Okay. I'm going to show
15	and then it moved to Justin Robison, who was the	15	you what's been marked as Exhibit Number 2, and take
16	district nurse manager for the San Antonio district,	16	a minute and look at that document, if you would.
17	and he's done it for several years.	17	A This one looks like it's been marked on.
18	Q And when did it change to him?	18	THE WITNESS: See?
19	A When Mr. Watson left, I had to find a new	19	MR. LIVELY: Yeah, I noticed that
20	facilitator.	20	too.
21	Q Okay. Now, at the time that this	21	THE WITNESS: Okay.
22	happened, at the time that the incident happened	22	MR. LIVELY: We'll clean that up if
23	that was the subject of Ms. Fisher's peer review,	23	we have to use it as an exhibit unless somebody --
24	was there anything addressed directly toward her,	24	we wrote on it. Do you see that report's
25	any kind of expectations, anything that would	25	underlined?

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1	MS. MILLER: I do, and I can't tell 2 you where it came from. I didn't do it. 3 MR. LIVELY: I didn't -- 4 MS. MILLER: It was on the document 5 when we I got it. 6 MS. FISHER: I think I underlined 7 that before I gave maybe copies because as I was 8 doing my appeals -- those was things that I had at 9 home, and as I was doing my appeals -- 10 MS. MILLER: All right. So we can 11 clean it up. 12 MR. LIVELY: So all that must be -- 13 yeah. 14 MS. FISHER: But HR has them all, 15 actually. 16 MR. LIVELY: We -- that's no big 17 deal. 18 MS. MILLER: I just pulled the wrong 19 one from the file, then. 20 MR. LIVELY: We can clean it up. 21 MS. MILLER: Okay. 22 Q (BY MS. MILLER) Absent the underlining, 23 do you recognize this document? 24 A It -- yes. It's a standard evaluation 25 form.	1	A Yes. 2 Q Correct? And Mr. Watson signed off on it. 3 Correct? 4 A Yes. 5 Q And is that your signature also? 6 A Yes, it is. 7 Q Okay. And you signed off on this 8 particular Exhibit Number 2 on July 15th of '05. 9 Right? 10 A (Moving head up and down) Sure. 11 Q Okay. And this review was after the 12 incident with the individual that hung himself that 13 was -- became the subject of Ms. Fisher's peer 14 review. Is that correct? 15 A Okay. I don't know. 16 Q Okay. Well, if it were done afterward, 17 would not this be an appropriate place -- if she 18 didn't follow protocol and needed some sort of 19 reprimand, wouldn't this be an appropriate place in 20 which to identify that for her? 21 A If, at the time, Mr. Watson thought that 22 there were performance issues, this would have been 23 the place to put them. 24 Q Okay. And you signed off on it, too, so 25 that means you had an opportunity to identify
1	82		84
1	Q And it's for Jackie Fisher. Right? 2 A Yes. 3 Q And what does this PMP date mean? 4 A That's the day the performance measure is 5 performed. 6 Q Okay. And then that's 6/25/04. Then why 7 wasn't it given until -- if you look on page 82 of 8 Exhibit Number 2, wasn't signed off on until July of 9 '05? 10 A It must mean that Mr. Watson was late 11 giving her her evaluation. 12 Q (BY MS. MILLER) Is that the start date? 13 MS. FISHER: That's the date it was 14 supposed to be -- 15 MS. MILLER: Okay. 16 MS. FISHER: Actually supposed to 17 be -- we put this date when they sign. Maybe he did 18 it that day. 19 MS. MILLER: Okay. 20 Q (BY MS. MILLER) All right. So the PMP 21 date is the date it's supposed to be given? 22 A Yes. 23 Q That it's due. And on page 82, the last 24 page, is the date that the individual employee, 25 Ms. Fisher, signed off on it?	1	performance issues also? 2 A I have much less knowledge about 3 performance issues for individual nurse managers 4 than my nurse -- my directors of nurses do, my 5 district directors do, but if I had knowledge of a 6 performance issue, I would bring it up before my 7 signature, yes. 8 Q Okay. So you -- but you are able to add 9 to these and -- 10 A And change them as I wish. 11 Q -- if you feel a need to comment, you 12 could. 13 A Yes. 14 Q Okay. So you generally have a lot less 15 knowledge than their immediate supervisors about 16 their performance. 17 A Sure. 18 Q Is that fair? Okay. But who made the 19 decision to demote Ms. Fisher? 20 A When? 21 Q How many times was she demoted? 22 A Twice. 23 Q Okay. Well, you have to tell me about the 24 times. 25 A Well, no. She got two letters where she

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1	was demoted. If you're speaking of the time -- what 2 time are you speaking of that she was demoted? 3 Q Well, I don't -- I'm confused. You have 4 to tell me. She was demoted twice. Okay. What's 5 the first time she was demoted? 6 A After her -- after the on-site 7 investigation and review and -- of the data. 8 Q And she was demoted -- she was demoted to 9 a Nurse Clinician III? 10 A That was the recommendation that was 11 initially made and was the recommendation from HR. 12 Q Okay. And that wasn't your 13 recommendation. 14 A It was a consideration. I did reconsider 15 and tried to look at the entire -- her entire career 16 with us and I identified where she had been 17 successful as an assistant nurse manager prior, and 18 I made the decision with the help of Mr. Watson -- 19 it was a -- I never make a decision without getting 20 input from someone else. And I did talk to HR, as 21 well, and I made the decision that her last 22 successful performance was as an assistant nurse 23 manager and I would rather demote her to an 24 assistant nurse manager than to staff nurse. 25 MS. MILLER: Move to strike as	1 Q Okay. And what happened with that? 2 A She wrote and told me -- or e-mailed or 3 called or in some way I found out that she had 4 already met the agreed-upon stipulations from the 5 Board of Nursing and that she had already completed 6 those and that they had already -- she thought they 7 had already cleared her of all requirements. 8 Q Um-hmm. Um-hmm. 9 A So I stopped what I was doing. I went and 10 looked on the BON web site on our licensure to see 11 if the restrictions remained. They did not remain. 12 She was correct. They had all been approved by the 13 board and accepted and they had been taken off her 14 license, and I removed my intent to demote her when 15 I found that out. 16 Q So did you jump the gun on that decision 17 to demote her? 18 A No. 19 Q All right. So, what? Did she ever have 20 restrictions? 21 A Yes. 22 Q And how were you notified? 23 A I was notified through the BON through the 24 mail that there were restrictions on her licensure. 25 Q And so that certainly would be a document	
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1	nonresponsive. 2 Q (BY MS. MILLER) Who made the decision to 3 promote her -- or to demote her? You said there are 4 two times. Who made the decision the first time? 5 A I did. 6 Q Okay. And what -- when was the second 7 time she was demoted? 8 A There was an intent to demote her when she 9 had Board of Nursing regulations -- stipulations and 10 regulations restrictions to her licensure. 11 Q And when was that? 12 A I don't remember the date. 13 Q Okay. And who made that decision? 14 A I did. 15 Q Okay. 16 A That is also common practice throughout 17 all of UTMB that nursing does not allow managers to 18 have stipulations or restrictions on their 19 licensures. 20 Q And that's understandable. Sure. And so 21 you made that decision at that point. 22 A The minute I found out she had -- I was 23 notified through the mail that she had restrictions 24 on her licensure, I went to human resources and 25 recommended her demotion.	1 that would be important in this lawsuit. 2 A Okay. 3 Q And you would keep a record of that; would 4 you not? 5 A I think HR has a record of that. 6 Q Okay. 7 A I don't keep a record of that. 8 Q Okay. 9 A HR would have. 10 Q Do you keep personnel files on any 11 individuals? 12 A The individuals I directly supervise. 13 Q But not anybody else? 14 A Yes. 15 Q Okay. So the first time that the decision 16 was to -- was made to demote her was based on 17 performance. 18 A Yes. 19 Q And so you were the one that made the 20 decision. Yet, I think I just indicated with the 21 review or the evaluation that you rely on the -- 22 their direct supervisors because they're more 23 knowledgeable. Now, I'm getting a conflicting 24 feedback here. Can you explain that dichotomy to 25 me?	

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1	A Well, I also tried to tell you that I did 2 not make that decision to demote in isolation. I 3 made that decision with the help of Mr. Watson and 4 human resources. That was not made in isolation. 5 Q Was there ever a time that Mr. Watson 6 didn't agree with you? 7 A He was much more supportive of the 8 assistant nurse manager demotion rather than all the 9 way to staff nurse. He and I both were, actually. 10 It was human resources that supported the demotion 11 to staff nurse. 12 Q So back to Exhibit Number 2, had there 13 been any serious concerns about her performance or 14 about the peer review, the findings of the peer 15 review, that could have been noted on her review for 16 that time period. Is that correct? 17 A The Board of Nursing considers nursing 18 peer review and disciplinary to be very separate. 19 Q I just want to interrupt you. I'm sorry. 20 Because if I ask you a "yes" or "no" question, I'm 21 sure your lawyers have told you I'd prefer that you 22 just answer the question and then he'll get a chance 23 to ask you questions later if you want to expound on 24 it. Okay? 25 A Okay.	1	kind of information from the Board of Nursing 2 Examiners. 3 A No. 4 Q Okay. 5 A It's to the person that refers. 6 Q And you -- neither you nor Mr. Watson 7 would have received direct communication from them 8 unless you were the referring person. Is that 9 correct? 10 A Yes. 11 Q Now, while Ms. Fisher's examination before 12 the Board of Nursing Examiners was pending, there 13 was another incident that happened on her watch, so 14 to speak. Are you aware of that? Another 15 mortality? 16 A I don't know what you're talking about. 17 Q Well, you're on the -- you would have 18 reviewed it as being on the board of -- 19 A We review about 60 to 80 cases a month, so 20 I would not have remembered. 21 Q Is it ever -- would it ever happen that an 22 incident would be referred directly to the Board of 23 Nursing Examiners if it hadn't gone through the peer 24 review, the nursing peer review? 25 A Yes.		
1	Q We agree on that? You just answer the 2 questions I'll ask you? 3 A Yes. 4 Q Thank you. So you could have -- in this 5 review that you reviewed and signed off on Exhibit 6 Number 2, had there been any overriding concerns 7 about her performance or the conduct that was sent 8 to peer review, that could have been noted in her 9 review itself, which is Exhibit Number 2. Is that 10 correct? 11 A Yes. 12 Q Now, did you get copies of the 13 communication from the Board of Nurse Examiners, or 14 how were you kept informed on what was happening 15 there? Once it was -- once Ms. Fisher's case was 16 sent to the Board of Nurse Examiners, how were you 17 informed as to the progress or the result or any 18 feedback from the board? 19 A The person that refers them to the board 20 normally is the one that gets the correspondence 21 back. So the peer review chairperson would have 22 gotten a letter back from the BON and then forwarded 23 any information to human resources, who would then 24 forward it to me. 25 Q So you wouldn't directly have received any	90	1	Q And how would that procedure work? 2 A Anyone can report to the Board of Nursing. 3 Their rules require that anyone can fill out a form 4 and report to the Board of Nursing. 5 Q So anyone can report to the peer review. 6 A Yes. 7 Q And anyone can report to the Board of 8 Nursing. 9 A Yes. 10 Q It doesn't necessarily have to be a 11 referral from the morbidity committee or from the 12 peer review committee. 13 A Or from me. 14 Q Or from you or from Mr. Watson. 15 A No. 16 (Exhibit 3 marked) 17 Q (BY MS. MILLER) Hang on just a second. 18 I'm going to mark -- I'll show you what's been 19 marked as Exhibit Number 3, and take a minute and 20 review that document, if you would. 21 MR. LIVELY: While you're reading, 22 I'm going to go -- 23 MS. MILLER: Sure. 24 (Discussion off the record from 1:24 to 1:31)	92

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<p>1 Q (BY MS. MILLER) Okay. You've had a 2 chance to review Exhibit Number 3, Ms. Gotcher?</p> <p>3 A Yes.</p> <p>4 Q And it's quite a detailed document; is it 5 not?</p> <p>6 A Yes, it is.</p> <p>7 Q And this represents an e-mail, evidently 8 from Mr. Watson to you, Ms. Rader, and Ms. Melton, 9 on Thursday, December 12th, of 2006.</p> <p>10 A No. January the 12th.</p> <p>11 Q January. Thank you. January 12th. That 12 was not a trick. I'm being dyslexic to some degree. 13 January 12th of 2006.</p> <p>14 A Yes.</p> <p>15 Q All right. And in this document, there 16 are eight pages of details that Mr. Watson has 17 delineated, all specific to Ms. Fisher.</p> <p>18 A Yes.</p> <p>19 Q Correct? Prior to January 12th of 2006, 20 had he put any of these issues that he raised in 21 writing to you previously?</p> <p>22 A Not that I remember, no.</p> <p>23 Q Okay. And you had all of this information 24 at the time that you made the decision to give her a 25 90-day expectations letter; did you not?</p>	<p>1 employees -- she stated again the moving of the 2 equipment and it continues to be moved -- and her 3 displeasure with Ms. Fisher's management style.</p> <p>4 Q Okay. I guess I didn't ask the question 5 right. What --</p> <p>6 MR. LIVELY: That's what I thought.</p> <p>7 Q (BY MS. MILLER) What was --</p> <p>8 MR. LIVELY: What was her job?</p> <p>9 Q (BY MS. MILLER) What was her job 10 position?</p> <p>11 A Oh, what was her position? Well --</p> <p>12 Q Well, I know. You were answering my 13 question, so I didn't interrupt you.</p> <p>14 A Her position was an RN in the emergency 15 room at the RMF.</p> <p>16 Q Okay. Thank you. And she reported to 17 Ms. Fisher. Is that correct?</p> <p>18 A Yes.</p> <p>19 Q Do you recall -- well, tell me: What's 20 the chain of command mean?</p> <p>21 A The chain of command means that I would 22 prefer that nurses go up their designated assigned 23 chain when there are issues or concerns that they 24 have with their supervisor, that they solve those at 25 the lowest possible level to their immediate</p>	
<p>1 A Yes.</p> <p>2 (Exhibit 4 marked)</p> <p>3 Q (BY MS. MILLER) Going to show you what's 4 been marked as Exhibit Number 4, and do you 5 recognize this document?</p> <p>6 A Not offhand.</p> <p>7 Q Okay. And we'll take a minute and look 8 through it.</p> <p>9 A Okay.</p> <p>10 Q You've had a chance to look at Exhibit 11 Number 4?</p> <p>12 A Yes, ma'am.</p> <p>13 Q And after taking a minute to read through, 14 does that refresh your memory as far as receiving 15 this document?</p> <p>16 A I don't remember it but there were lots of 17 documents.</p> <p>18 Q All right. And this is from an Ann Darby 19 and she's one of the ones you mentioned earlier that 20 had e-mailed you or contacted you about Ms. Fisher. 21 Is that correct?</p> <p>22 A Yes.</p> <p>23 Q What was Ms. Darby's position?</p> <p>24 A Ms. Darby's position was that she didn't 25 feel like Ms. Fisher was being fair with some</p>	<p>94</p> <p>1 supervisor.</p> <p>2 Q And essentially, in this particular 3 instance, this would mean if Ms. Darby had a 4 complaint with Ms. Fisher, she should try to deal 5 with Ms. Fisher first. Is that correct?</p> <p>6 A (Moving head up and down)</p> <p>7 Q And what was done in particular with -- as 8 far as Ms. Darby, I believe it was Ms. Anderson, 9 Ms. Lauder, and Ms. Moreau to have them work in the 10 chain of command and try to deal with Ms. Fisher 11 directly? What did you do personally to have -- to 12 facilitate that?</p> <p>13 A Personally to facilitate that, I don't 14 answer these. I don't -- when I get these, I do not 15 answer them. I let -- if she needs this to be 16 answered, she needs to go to Ms. Fisher with that 17 and so I don't answer these. I don't answer back.</p> <p>18 Q Okay. So that's the way you respond to 19 the chain of command is that you don't pay any 20 attention to it.</p> <p>21 A No. That's not the way I respond to the 22 chain of command.</p> <p>23 Q Okay.</p> <p>24 A That's the way I responded to Ms. Darby in 25 this e-mail.</p>	96

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1	Q But, yet, you did take some e-mails, such	1	facility.
2	as this one, and obviously give them credence.	2	Q And that would have included Ms. Bord.
3	A When did you hear me say that?	3	A Ms. Bord?
4	Q Well, you were basing some of your	4	Q Ms. Boyd.
5	decision-making on complaints from the employees;	5	MS. FISHER: Bond.
6	were you not?	6	Q (BY MS. MILLER) Bond.
7	A It was a combination of all of the	7	A No.
8	information, yes, but --	8	Q So it was only the facility as it
9	Q Okay. Some of -- I'm not saying that you	9	pertained to Ms. Fisher.
10	relied a hundred percent, but did you rely on	10	A The RMF, not even the building, not even
11	complaints from employees in your decision to demote	11	Ms. Fisher's other facility or not high security.
12	Ms. Fisher?	12	The particular facility I went to, the RMF.
13	A Yes.	13	Q Okay. So your investigation was limited
14	Q Okay. And is there anything that you	14	to the RMF?
15	particularly did to reinforce the chain of command?	15	A Yeah.
16	A Yes. I put it in the expectations that I	16	Q And her 42 employees, are those all RMF
17	gave them when I met with that group. I verbally	17	employees?
18	told the entire group that I expected them to follow	18	A No.
19	their chain of command.	19	Q Did you --
20	Q Okay. And, yet, when you said that you	20	A But the employees do float from place to
21	didn't extend the 90-day period to her, that you	21	place, so there are times when they work the RMF and
22	made the decision in that interim period to still	22	other times when they work the building.
23	demote her, I believe you said that was based in	23	Q Okay. And so your -- the invitation to
24	part from continuing complaints directly to you.	24	come and speak with you would have been directed
25	A Not necessarily directly to me. Continued	25	only to the RMF.
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1	complaints.	1	A Would have been directly to anyone that
2	Q Okay. Were those complaints in the chain	2	ever worked in the RMF.
3	of command as you had expected them to be?	3	Q Okay. And that would have been every
4	A I don't know if they had talked to	4	employee or not?
5	Ms. Fisher about them or not. I know that they	5	A Yes.
6	spoke to Mr. Watson about them.	6	Q Now, I think we also talked about your
7	Q And how do you know that?	7	follow-up with Ms. Fisher. Did you recall if you
8	A That was his report to me.	8	initiated it or if she initiated it?
9	Q Is that a report in writing to you?	9	A What follow-up?
10	A No.	10	Q The follow-up after you visited the
11	Q And that's an oral report.	11	facility when she wasn't there.
12	A Yes.	12	A I don't recall. I just know we met.
13	Q So we would have no way of verifying that.	13	THE WITNESS: Can we take a break?
14	A No.	14	MR. LIVELY: Sure. We can take a
15	Q Do you recall, after having time to think	15	little break.
16	about it, what date it was that you went to do the	16	MS. MILLER: Yeah. Sure.
17	on-site visit?	17	(Recess from 1:41 to 1:44)
18	A It's been stated in several of these	18	(Exhibit 5 marked)
19	documents but I didn't.	19	Q (BY MS. MILLER) I show you what's been
20	Q You don't recall.	20	marked as Exhibit Number 5. Take a look at those
21	A No.	21	series of e-mails, if you would, please. Oh. I
22	Q And just so I'm clear again, did you go to	22	think that second one doesn't belong with the first
23	investigate Ms. Fisher or to investigate the	23	one. I'll just give you one page. Sorry.
24	facility?	24	A They're not flowing very well.
25	A The facility, the atmosphere of the	25	Q No, they're not flowing at all. Give me

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<p>1 back the second page, please. Thank you. Okay.  2 Exhibit Number 5, consisting of one page, do you  3 recognize that e-mail?  4 A Sure. Yes.  5 Q Okay. And this would have been the  6 meeting where you had the follow-up meeting with the  7 staff and with Ms. Fisher.  8 A Yes.  9 Q And did you give her the -- you have  10 five -- three different meetings?  11 A Yes.  12 Q To accommodate different times?  13 A Yes.  14 Q And did you give her her expectations in  15 every meeting or just the first meeting?  16 A I would have thought I gave them in all.  17 I would have expected I gave them in all.  18 Q Okay. So even though she had her  19 expectations at 10:00 a.m., you would have regiven  20 her expectations for the benefit of the employees.  21 A Yes.  22 Q And was this a reprimand or not?  23 A No.  24 Q No. Okay. So before you demote someone,  25 aren't you supposed to go through some steps of</p>	<p>1 was felt that more aggressive action needed to be  2 taken.  3 Q And when you say "it was felt," you felt?  4 A Not in isolation. HR and Mr. Watson were  5 in that decision.  6 Q Okay. And I think you named five people,  7 Mr. Aguilar, Anderson, Darby, Lauder, and Moreau,  8 and you couldn't tell me anybody that came and spoke  9 with you that day -- or those two days. Who else  10 was complaining?  11 A Well, there was a list in Mr. Watson's  12 e-mail that you gave me in a different exhibit, and  13 I don't remember all of who was complaining. It was  14 a large enough number to cause concern.  15 Q Okay. And when was it that you got  16 Ms. Fisher's side of the -- of this?  17 A After the on-site visit, we met with  18 Ms. Fisher.  19 Q Okay. And so you had -- didn't reprimand  20 her.  21 A No.  22 Q But you did give her expectations. What  23 level of progressive discipline are the expectations  24 usually described as?  25 A This was not a formal written letter of</p>
<p>102</p> <p>1 disciplinary procedures, progressive discipline?  2 A I use -- there -- that's not always the  3 case and I use HR to help me determine at what level  4 disciplinary needs to happen when they -- they keep  5 it consistent throughout the entire organization.  6 So, no, there are things and times when we do not go  7 through each step of the disciplinary process.  8 Q Okay. But you do have a progressive  9 disciplinary procedure.  10 A Yes, we do.  11 Q And that would be a step procedure where,  12 before a serious tangible employment detrimental  13 event would happen, that you would try to go through  14 those steps.  15 A If it's appropriate.  16 Q Okay. And are you saying that performance  17 issues would not be appropriate for progressive  18 discipline?  19 A Not always.  20 Q Why would not Mrs. Fisher's issues have  21 been appropriate for progressive discipline before  22 you demoted her?  23 A I -- with the reports we were getting from  24 the nursing staff and the urgency of the Estelle  25 facility, the importance of the Estelle facility, it</p>	<p>104</p> <p>1 expectation. This was a communication that was  2 given to her and the staff in hopes of improving the  3 communication, morale, and atmosphere at the Estelle  4 facility.  5 Q All right. And can you give me an example  6 of some kind of performance issues that a nurse  7 manager might be presented with that you would use  8 progressive discipline on? Because this apparently  9 wasn't one of them; was it?  10 A No. This was not one of them. But if a  11 nurse manager has performance issues with time  12 lines, getting things done, with -- there's many  13 times that we give progressive disciplinary action.  14 Q But not this time.  15 A No.  16 Q Who was the nurse manager before  17 Ms. Fisher at Estelle?  18 A Mary Adams, I believe.  19 Q Did you have any performance issues with  20 her?  21 A At points in her career, there have been  22 performance issues with her.  23 Q And did you have any --  24 A I wasn't completely aware of them.  25 Mr. Watson dealt with her on most of those.</p>

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1       Q   And did you have any employee complaints 2   about Ms. Adams? 3       A   Not that I specifically remember. 4       Q   Okay. And do you know if Ms. Adams was 5   ever put on any kind of progressive discipline 6   program? 7       A   She may have been given letter of 8   expectations or she may have been -- had some verbal 9   counseling from Mr. Watson that I don't know of. 10      Q   Okay. 11      A   I don't know of any written, formal 12   discipline that came to my attention. 13      Q   But the reason you chose to get involved 14   in Ms. Fisher's issues instead of Ms. Adams' is 15   because -- 16      A   Because the Estelle Unit was failing. 17      Q   Okay. And that was, again, based on 18   vacancy rates and turnover rates. 19      A   And complaints I was receiving from the 20   staff that were being validated some by Mr. Watson 21   and the fact that he was not able to make progress 22   with those complaints or with the morale at their -- 23   at the Estelle facility. 24      Q   Who was the supervisor after Mrs. Fisher 25   at the Estelle Unit?	1       (Exhibit 6 marked) 2       Q   (BY MS. MILLER) Okay. I apologize for 3   this copy, but this is the best we have. Let me 4   show you what's been marked as Exhibit Number 6. 5       A   This is a completely different e-mail, the 6   last page of that. 7       Q   Um-hmm. We can make it a separate 8   exhibit. That's fine. 9       A   No. I just -- okay. 10      Q   Okay. Let's go ahead and make it a 11   separate exhibit so nobody gets confused. We'll 12   just pull the back page off, make it 7. 13      (Exhibit 7 marked) 14      Q   (BY MS. MILLER) In looking at Exhibit 15   Number 6, do you recall seeing that document? 16      A   Yes. 17      MR. LIVELY: Did you pull the last 18   page? 19      MS. MILLER: I made it Number 7 20   because it's related but it's not the same document. 21      MR. LIVELY: Not part of the same? 22      MS. MILLER: No. 23      MR. LIVELY: Okay. Sorry. 24      Q   (BY MS. MILLER) And in reviewing this 25   document from Mr. Watson, did you have a		
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1       A   I -- 2       MR. LIVELY: The nurse manager? 3       MS. MILLER: Nurse manager. Thank 4   you. What did I say? 5       MR. LIVELY: Supervisor. 6       MS. BERNSTEIN: Supervisor. 7       MS. MILLER: Oh, yeah. 8       A   Julie Upshaw, maybe. I don't know. Or 9   Ms. Hansen. I don't know whether Judy Upshaw was 10   there in between Ms. Hansen. Ms. Hansen is the 11   current supervisor. 12      Q   (BY MS. MILLER) Well, has the Estelle 13   Unit turned around? 14      A   It's better. 15      Q   And how would we know it's better? 16      A   Vacancy rate is better. Turnover is 17   better. We don't get the complaints. We're not 18   getting the same number of complaints from the staff 19   members or from the management staff. I don't -- I 20   don't hear the same complaints. 21      Q   Okay. And the vacancy rates and the 22   turnover rates, are they better industrywide or 23   throughout the units or is it just the Estelle Unit 24   that's turned around? 25      A   No. They're better all over Huntsville.	1       conversation with him about this feedback? 2       A   Yes. 3       Q   And what was that conversation? 4       A   That is the consultation I told you that 5   went on between HR and Mr. Watson and myself when we 6   were trying to decide whether to demote Ms. Fisher 7   to staff nurse or to assistant nurse manager. 8       Q   Okay. And so this was prior to the 9   demotion. 10      A   I think she may have been given her letter 11   but we were -- we were still -- she had appealed and 12   we were looking at our decision. 13      Q   Okay. So if she already had a letter -- 14      A   I don't remember where it came in. 15      Q   Okay. Look at Exhibit Number 7. 16      A   Yes. 17      MR. LIVELY: That's the separate. 18      MS. MILLER: The separate page I just 19   pulled off. 20      Q   (BY MS. MILLER) And do you recognize this 21   document? 22      A   Yes. 23      Q   Okay. And did you have a conversation 24   with Ms. Melton about this document? 25      A   Yes.		

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<p>1 Q Okay. And what was that conversation?</p> <p>2 A Again, it was with Mr. Watson and human</p> <p>3 resources and myself and Ms. Melton and we -- HR</p> <p>4 thought that we needed to demote Ms. Fisher to a</p> <p>5 staff nurse, and Mr. Watson and I wanted to make it</p> <p>6 an assistant nurse manager.</p> <p>7 Q And when you say "we had a conversation,"</p> <p>8 did you have a conference call or a series of</p> <p>9 conversations?</p> <p>10 A I don't remember. I know we talked.</p> <p>11 Q Did you ever talk to more than one person</p> <p>12 at a time about this?</p> <p>13 A I don't know that we had a special</p> <p>14 meeting.</p> <p>15 Q A special conference call --</p> <p>16 A No.</p> <p>17 Q -- or a special meeting?</p> <p>18 A I don't know that we had a special</p> <p>19 meeting.</p> <p>20 Q And when Ms. Melton indicated, "We can</p> <p>21 fight this appeal now or later," how did you</p> <p>22 interpret what that meant?</p> <p>23 A I interpret that to mean that she</p> <p>24 anticipates an appeal.</p> <p>25 Q And did you anticipate an appeal?</p>	<p>109</p> <p>1 Q You can remember the bad feedback but not</p> <p>2 good feedback?</p> <p>3 A No. I didn't remember the bad feedback,</p> <p>4 either, if you remember.</p> <p>5 Q Well, I think -- I got the names Aguilar,</p> <p>6 Anderson, Darby, Lauder, and Moreau from you.</p> <p>7 A Of the people that -- of the people that</p> <p>8 had e-mailed me or had some complaints that I</p> <p>9 remembered, but during the on-site -- I don't even</p> <p>10 remember who came to the on-site interview.</p> <p>11 Q But it -- you think that Ms. Melton took</p> <p>12 notes.</p> <p>13 A I know Ms. Melton took notes.</p> <p>14 Q When did you become aware, if you did,</p> <p>15 that Ms. Fisher filed a charge of discrimination</p> <p>16 with the Equal Employment Opportunity Commission?</p> <p>17 A I don't know the date.</p> <p>18 Q Was it shortly after she filed?</p> <p>19 A I would assume.</p> <p>20 Q And what's the procedure at UTMB? Have</p> <p>21 you ever had any charges of racial discrimination in</p> <p>22 addition to Ms. Fisher's?</p> <p>23 A At the same time as Ms. Fisher's? I --</p> <p>24 Q That wasn't my question. Have you had</p> <p>25 other charges of racial discrimination in addition</p>
<p>110</p> <p>1 A Yes.</p> <p>2 Q When is the first time that Ms. Fisher</p> <p>3 complained about racial discrimination by Mr. Watson</p> <p>4 at UTMB, of which you've been made aware?</p> <p>5 A I don't remember.</p> <p>6 Q Before all this started happening.</p> <p>7 A I don't remember.</p> <p>8 Q Now, when you did this investigation, did</p> <p>9 you get any good feedback about Mrs. Fisher?</p> <p>10 A Yes.</p> <p>11 Q Yes. Okay.</p> <p>12 MR. LIVELY: You talking about the</p> <p>13 on-site?</p> <p>14 MS. MILLER: The on-site and the</p> <p>15 subsequent e-mails.</p> <p>16 Q (BY MS. MILLER) Did you get any good</p> <p>17 letters about her?</p> <p>18 A Letters? I don't remember letters but --</p> <p>19 Q E-mails?</p> <p>20 A Or e-mails, but I remember good feedback</p> <p>21 during the on-site interview.</p> <p>22 Q Okay. And who gave you the good feedback?</p> <p>23 A I have no idea.</p> <p>24 Q Okay.</p> <p>25 A I don't remember.</p>	<p>112</p> <p>1 to Ms. Fisher's?</p> <p>2 A Yes.</p> <p>3 Q And who are those charges from?</p> <p>4 A Ms. Freeman and Ms. Kelly, I think.</p> <p>5 Q Ms. Freeman and Ms. Kelly?</p> <p>6 A Ms. Freeman and Ms. Kelly, I think, were</p> <p>7 done at the same time.</p> <p>8 Q And are they a similar time frame to</p> <p>9 Ms. Fisher?</p> <p>10 A At the same time.</p> <p>11 Q Okay. And how about anything prior?</p> <p>12 A No.</p> <p>13 Q Have there been racial discrimination</p> <p>14 cases filed?</p> <p>15 A No.</p> <p>16 Q There have been no suits pending against</p> <p>17 UTMB for racial discrimination?</p> <p>18 A That I --</p> <p>19 Q Of which you're aware.</p> <p>20 A Of which I'm aware or been involved in,</p> <p>21 no.</p> <p>22 Q Okay. So what's the procedure if</p> <p>23 someone -- an employee does file an EEOC charge?</p> <p>24 What would the procedure be for letting you know if</p> <p>25 it's an employee under your supervision, either</p>

	113		115
1	direct or somewhere down the line?	1	in the EEOC charge?
2	MR. LIVELY: Jo, are you talking	2	A They did not tell me.
3	about one that's filed externally, not internally?	3	Q At some point, did you learn what was in
4	MS. MILLER: Yes. Because the --	4	the EEOC charge?
5	I distinguish that as an EEO.	5	A No.
6	MR. LIVELY: Okay. Okay. That's	6	Q Were you not curious, even?
7	fine.	7	A Don't know what's in it.
8	MS. MILLER: Okay.	8	Q And today do you know?
9	MR. LIVELY: Just so we're all on the	9	A No.
10	same page.	10	Q Okay. At some point, somebody responded
11	THE WITNESS: I guess I'm not on the	11	to the EEOC, so did you participate in gathering
12	same page. So is this the --	12	information for that response?
13	Q (BY MS. MILLER) Okay. The EEOC, the	13	A When I was asked for information or data,
14	external government agency.	14	I -- or an interview, I gave it to whoever asked.
15	A Okay. So not the UTMB EEOC complaints	15	Q Okay. And you still didn't know what the
16	that we get that our HR investigates as EEOC	16	charges were.
17	complaints.	17	A No.
18	Q They're EE --	18	Q So it could have been age discrimination,
19	A We have an EEOC division on campus that	19	for all you know.
20	comes and investigates and then we have --	20	A For all I knew.
21	MS. BERNSTEIN: That's EEO. That's	21	Q And to this day, for all you know, it
22	not EEOC.	22	could be age discrimination.
23	THE WITNESS: Okay.	23	A Well, I've seen the pleadings for this
24	MS. MILLER: But everybody uses it	24	case, so I know --
25	interchangeably, so that's why it got --	25	Q So you assume.
	114		116
1	MR. LIVELY: It got a little	1	A Yes.
2	confusing.	2	Q Okay. But you knew that Ms. Fisher had
3	Q (BY MS. MILLER) All right. I'm speaking	3	charged Mr. Watson with racial discrimination, not
4	not of the internal investigatory part of your	4	necessarily when the EEOC charge, but you knew she'd
5	agency but the governmental agency, the federal	5	made those allegations in the workplace.
6	agency that investigates from outside your purview.	6	A I don't know that it ever came to me -- I
7	What's was the procedure for you being notified if	7	guess through the grievances, I knew it, yes.
8	someone has filed a charge with the EEOC.	8	(Exhibit 8 marked)
9	A I usually find out -- or the -- this time	9	Q (BY MS. MILLER) Okay. I'm showing you
10	is the only time I know. I find out -- found out	10	what's been marked as Exhibit Number 8 and ask you
11	through human resources.	11	if you recognize this document.
12	Q And they provide you with a copy of the	12	A Okay.
13	charge?	13	Q Do you recognize Exhibit Number 8?
14	A No. They just told me it had been filed	14	A Yes.
15	and that I would probably be asked to provide	15	Q And did you have an opportunity to review
16	documentation and --	16	this with Mr. Watson before it was sent to
17	Q Okay. And so you didn't see a copy of the	17	Ms. Fisher?
18	charge?	18	A I think I reviewed it actually with HR.
19	A No.	19	HR was also participating in --
20	Q Were you told what the charges were?	20	Q In preparing it.
21	A No.	21	A In preparing it.
22	Q So you didn't know anything about it?	22	Q And so as a result of what you indicated
23	A No.	23	was your group consensus with HR and Mr. Watson and
24	Q You're the director of nursing for all --	24	yourself, this letter was prepared.
25	for all of the northern and you had no idea what was	25	A Yes.

	117		119
1	Q All right. And you'll note that in	1	after that time when HR instructed me not to.
2	Exhibit Number 8, this is when she's been demoted to	2	Q Okay. So at least on 4/12, you were
3	a Nurse Clinician III, effective April 13th. And	3	aware -- at least when she filed her grievances,
4	was that your recommendation?	4	UTMB was aware that there was an EEOC charge filed.
5	A At the time, yes.	5	MR. LIVELY: On 12?
6	Q And did you have an opportunity to help	6	A HR --
7	craft some of this language or certainly provide the	7	MS. MILLER: 4/12. April 12th.
8	facts that were put in here for HR?	8	MR. LIVELY: Oh, okay. I thought you
9	A Mr. Watson provided the facts and HR does	9	meant Exhibit 12.
10	a lot of the crafting. I read it and change it	10	MS. MILLER: No. Not there yet.
11	if -- or ask for changes as I feel needed, but I	11	A HR was made aware first and I'm sure they
12	didn't -- I didn't have much input into the	12	made me aware at some point in time.
13	document.	13	Q (BY MS. MILLER) Okay. Now, you knew that
14	Q Just the decision --	14	she did file grievances, though, challenging the
15	A Yes.	15	decision to demote her to a clinician, Nurse
16	Q -- in terms of the first paragraph.	16	Clinician number 3.
17	A Yes.	17	A I was told but I didn't always see them.
18	Q Did you read it before it went out?	18	Q Okay. And the reason you didn't see them
19	A Uh-huh.	19	was because they weren't responded to because --
20	Q Okay. So to the best of your knowledge,	20	A Yes.
21	it's accurate in terms of the facts that are	21	Q -- of the EEOC charge.
22	presented.	22	A Yes.
23	A Yes.	23	Q Okay. Looks like we've got two letters.
24	(Exhibit 9 marked)	24	I've got new help and she did pretty good on this
25	Q (BY MS. MILLER) Show you what's been	25	one.
	118		120
1	marked as Exhibit Number 9. Do you recognize this	1	(Exhibit 10 marked)
2	document?	2	Q (BY MS. MILLER) I'm going to show you
3	A It's a standard document.	3	what's been marked as Exhibit Number 10, and do you
4	Q And that would be the standard way you	4	recognize that document?
5	would handle it when somebody's demoted or when	5	A Yes.
6	there's some significant employment -- negative	6	Q Okay. And although you weren't copied on
7	employment action?	7	it, you were aware of that before it went out.
8	A This came from HR, yes.	8	A Yes.
9	Q Okay. So they always -- you always	9	Q And did you have a chance to review this
10	give --	10	document also, before it went out to Ms. Fisher?
11	A Yeah.	11	A Yes.
12	Q -- the person an opportunity to respond.	12	Q And it indicates there that Mr. Watson
13	A Yes.	13	said it was his decision to bring her back up to an
14	Q Okay. And you know that Ms. Fisher did	14	assistant nurse manager. Is that what this says?
15	respond by following grievances; don't you?	15	A Yes.
16	A Yes.	16	Q And was it his decision solely?
17	Q Okay. Were you involved in any of those	17	A As I've said previously, it's -- was not
18	grievances and the handling of any of those	18	made in isolation by any one person.
19	grievances or an investigation?	19	Q Okay. And you have indicated in this
20	A If I needed to answer any of those	20	letter or Mr. Watson indicated in this letter what
21	grievances. At the time that an EEOC charge is	21	her salary would be as an assistant nurse manager,
22	filed or they believe it has turned into an EEOC	22	and that was significantly less than she was making
23	charge or a lawsuit has been filed, HR -- under	23	before.
24	their direction, we don't answer grievances or	24	A It was less than, yes.
25	appeals at that time and so I did not participate	25	Q Okay. And, again, she's noticed in

	121		123
1    Exhibit Number 10 that she has an opportunity to 2    appeal this. 3    A   Yes. 4    Q   And that's -- would be standard procedure. 5    A   Yes. 6    Q   And she did indeed appeal it; didn't she? 7    A   I believe so. 8    Q   Now, the assistant manager position -- 9    could I see that back, please? 10? 10   A   That one? 11   Q   She was assigned to the Wynne Unit? 12   A   Yes. 13   Q   Right? And who was -- she was the 14   assistant nurse manager at the Wynne Unit, then. 15   A   Yes. 16   Q   Right? Who was the nurse manager at the 17   Wynne Unit at that time? 18   A   She was going to report directly to the 19   cluster nurse manager, Kim Roddy. 20   Q   My question was: Who was the nurse 21   manager at the Wynne Unit at that time? 22   A   I don't know. 23   Q   There wasn't one; was there? 24   A   There was -- it must have been Ms. Roddy. 25   She was assigned temporarily over the Wynne Unit as	1    A   Ms. Fisher probably -- the duties are very 2    much the same, so, yes, probably so. 3    Q   Although she still had the assistant nurse 4    manager title. 5    A   (Moving head up and down) 6    Q   And she was still making the assistant -- 7    the pay of an assistant nurse manager. 8    A   Yes, ma'am. 9    Q   And she was still technically demoted. 10   A   Yes, ma'am. 11   Q   Was she still under disciplinary? Would 12   that be described as under disciplinary? 13   A   I don't know when a demotion disciplinary 14   stops. We count it as a demotion for the next -- or 15   as a disciplinary, I would believe, for a policy for 16   the next year. 17   Q   For the full year. 18   A   Yes. 19   Q   And so tell me how these merit raises 20   work. You know, you -- everybody gets a merit raise 21   unless they're on -- 22   A   Not everybody. 23   Q   -- discipline? 24   A   Not necessarily. 25   Q   Okay. How is it decided who gets a merit		
	122		124
1    the nurse manager, and that's why Ms. Fisher would 2    have reported to Ms. Roddy. 3    Q   Okay. But Ms. Roddy was temporary? 4    A   Yes. 5    Q   And then she, in fact, left in a few 6    months. 7    A   She did. 8    Q   Didn't she? And after Ms. Roddy left, who 9    was the nurse manager in charge of the Wynne Unit? 10   A   I don't know who he put in charge of the 11   Wynne Unit. 12   Q   Okay. 13   A   I do know Ms. Warren was put in charge of 14   Ms. Fisher instead of Mr. Watson at the same time. 15   Q   Okay. And, in fact, after Ms. Roddy left 16   the Wynne Unit, Ms. Fisher was the -- still the 17   assistant nurse manager over the Wynne Unit. 18   A   Yes. And there was a nurse manager 19   assigned. 20   Q   Let me ask the questions. And although 21   she reported to -- reported to Ms. Warren, where was 22   Ms. Warren located? 23   A   In Palestine. 24   Q   And, in fact, Ms. Fisher functioned as the 25   nurse manager over the Wynne Unit; did she not?	1    raise? 2    A   Disciplinary is one of the -- at a written 3    level or above is one of the considerations. The 4    other consideration is your evaluation status and 5    what you make on your evaluation. 6    Q   Okay. 7    A   And HR normally has a -- we also consider 8    your comp ratio and where you sit in a comp ratio 9    comparison. HR has a grid that they use and hold us 10   to for evaluation scores, compa-ratio score, and 11   discipline -- if you're in disciplinary status, 12   you're automatically -- 13   Q   You just don't get one, period. 14   A   -- demoted, but we use the other two to 15   help determine the amount. 16   MR. LIVELY: What did you say? Comp ratio? 17   THE WITNESS: Compa-ratio. 18   MR. LIVELY: Comparables? 19   THE WITNESS: It's kind of a median. 20   It's comp -- how close are you to the median pay for 21   that code. 22   MR. LIVELY: I just didn't understand 23   that. 24   THE WITNESS: And that's a		

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1	compa-ratio.	1	A If you are well within your compa-ratio,
2	Q (BY MS. MILLER) I think -- I thought I	2	if you're well above the median of what your -- the
3	understood it but -- I think I do. It's a	3	average pay is and you don't have a -- but a medium
4	formula --	4	or less than score on your evaluation, you might not
5	A Yes.	5	get a merit increase.
6	Q -- that they use and it's a formula, then,	6	Q Or you might get a lesser one.
7	that you put their scores in.	7	A You may get none. You can get all the way
8	A It's very standard in HR, very standard in	8	to none.
9	the HR employment world.	9	Q Okay. Or a lesser one.
10	Q Okay. Was there anybody that you know of	10	A And you can get anywhere from zero to
11	for that particular pay -- is it legislatively	11	7 percent, I think.
12	defined?	12	Q Okay. All right. Thank you. Now, did
13	A Not merit.	13	you work directly with Ms. Roddy when you
14	Q No. Okay. But is there a difference in a	14	assigned -- or when Ms. Fisher was assigned to
15	merit raise and a regular raise?	15	Ms. Roddy?
16	A cost of living raise. We do have cost	16	A No.
17	of living raises that are legislatively mandated.	17	Q Did anybody work directly with Ms. Roddy
18	Q Okay. And are you eligible for those if	18	on that?
19	you're under discipline?	19	A Ms. Warren. Ms. Warren.
20	A I think we have to give those to everyone.	20	Q Ms. Warren did?
21	Q Okay. And so the merit raises are --	21	A If Ms. Roddy needed any assistance with
22	they're not assigned by the legislature?	22	Ms. Fisher, Ms. Warren was her resource.
23	A No.	23	Q All right. Did you have -- at that point
24	Q Where do those come from?	24	in time, did you have position descriptions for
25	A They come from our budgeting and planning	25	every position at UTMB/TDCJ?
	126		128
1	in correctional managed care.	1	A Yes.
2	Q And that's set aside every year.	2	Q And so there would be no need to create a
3	A We try to set aside enough every year.	3	new position description for, say, the position that
4	There have been years where we haven't had enough to	4	Ms. Fisher was assigned to.
5	pay merits. There are also market increases.	5	A No. Their job descriptions and post job
6	Q And what are market increases?	6	descriptions.
7	A UTMB, to include CMC, does market surveys	7	Q I just thought of something I want to ask
8	and market studies of different job codes every year	8	and I forgot it. Give me a minute. I have to think
9	and we then compare that -- those results with our	9	of it.
10	current salaries to make sure that our salaries stay	10	MR. LIVELY: Why we don't take a
11	within market.	11	little break.
12	Q So you can be competitive and --	12	MS. MILLER: That's fine.
13	A Yes.	13	(Recess from 2:21 to 2:29)
14	Q -- and keep your vacancy rates down and	14	Q (BY MS. MILLER) Okay. Mr. Watson is no
15	your turnover --	15	longer there. Is that correct?
16	A Yes.	16	A No. Yes. He's not there.
17	Q -- rates down. Is that correct?	17	Q Tell me the circumstances of Mr. Watson's
18	A Yes.	18	departure from UTMB.
19	Q Okay.	19	A I don't know the details in that he did
20	A And nurses just got a market increase, as	20	resign. He chose to resign. I do know that at the
21	a matter of fact.	21	time of his resignation, he was not getting along
22	Q Okay. But the merit increases, what --	22	well with his practice manager, one of the other
23	give me an example of someone who is not on	23	facility management team members, and they had had
24	disciplinary but who might not qualify for a merit	24	some difficulty. He had had some difficulty with
25	increase.	25	his facility management team and decided to resign.

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<p>1 Q Okay. And, in fact, they wrote some 2 letters and contacted you about their 3 dissatisfaction with Mr. Watson; didn't they? 4 A The entire divisional team, not just me. 5 Q Not just you. Okay. And was Mr. Watson 6 issued a letter of expectation as a result of that? 7 A Between the time they told us and they -- 8 we asked them to meet with him and the time he left 9 was very short, so, no, there was nothing. 10 Q Okay. And so how long had you been aware 11 of Mr. Watson having problems with manager? 12 A It seemed to happen quite suddenly as far 13 as the -- this last incident and the last 14 dissatisfaction. Management teams often disagree 15 over certain things and we encourage them to look at 16 different -- and come up with some sort of consensus 17 rather than complaint. So there had not been any 18 large issues prior to that, that I knew of, other 19 than regular stuff. 20 Q Okay. How long had you been aware of 21 regular stuff problems with Mr. Watson -- 22 A Oh, regular stuff? 23 Q -- and the management staff? 24 A Regular stuff goes on in management teams 25 from the time they form.</p>	<p>1 Q Okay. Issues like he did things that made 2 them unhappy? 3 A That happens all the time. 4 Q Okay. 5 A That is a normal issue. 6 (Exhibit 11 marked) 7 Q (BY MS. MILLER) Let me show you what's 8 been marked as Exhibit Number 11. 9 Q And I just want to know if you recognize 10 this exhibit. 11 A Yes. I recognize it. 12 Q Okay. And what is this? 13 A This is the summary report of a 14 correctional managed care initiative for -- of a 15 focus group that we put together, a large focus 16 group, actually, that was supported by the 17 management team to identify what staff level, 18 facility staff level, people thought the largest 19 issues were in our facility. 20 Q I'm not sure I understand that. 21 A The leadership of correctional managed 22 care made an effort with this task force to give the 23 facility level, all the facility level staff, to 24 prioritize their issues for us. 25 Q And that's what's really attached here in</p>
<p>130</p> <p>1 Q Okay. What would you classify as regular 2 stuff? 3 A Oh, they fuss over what positions they're 4 going to post and the finance, who's going to pay 5 who what, and they fuss over you're not controlling 6 agency as much as you should, and they fuss over 7 various and sundry things, and those go on all the 8 time. 9 Q And do people complain to you all the 10 time? 11 A "Complain" is a hard word. Do they want 12 to vent sometimes? Yeah. 13 Q All right. And how long have people been 14 venting to you, either in writing or in person or on 15 the phone or in any manner of communication, about 16 Mr. Watson? 17 A Not any more than any other -- none. 18 Q Okay. 19 A None. 20 Q You're not really answering my question, 21 then. How long had that been happening? 22 A From the time his management team came, 23 from the time that team was formed, they had the 24 regular issues that went on. I was not notified of 25 any issues that were not expected.</p>	<p>132</p> <p>1 Roman numeral section? 2 A Yes. 3 Q Am I correct in understanding that? 4 A Yeah. 5 Q And so it goes from the highest priority 6 to the least highest? Is that the way I'm to 7 interpret this? 8 A Certainly wasn't my task force and Fred 9 Huff put this together. 10 Q But it's a directive from upper -- your 11 upper management. 12 A Sure. 13 Q Is it not? 14 A Sure. Yes. And, yes, it goes from upper 15 to lower. 16 Q Okay. So things that you were concerned 17 about in demoting Ms. Fisher, this person right 18 here, really that's Recommendation I. She had -- 19 there were excessive work loads on the people that 20 were there. Is that correct? Under her -- on her 21 staffing. 22 A Sure. Her staffing challenges. 23 Q Short staffing. She's -- and process and 24 protocols -- 25 A Um-hmm.</p>

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1	Q -- that they were concerned about. A	1	MS. MILLER: Okay. I'm almost done
2	Recommendation III, lack of confidence in	2	here. I need -- just need a couple --
3	supervisors and management?	3	MR. LIVELY: Do you want to take a
4	A Um-hmm.	4	little break?
5	Q That occurred at all levels; didn't it?	5	MS. MILLER: Can we take a break
6	A I believe -- I don't think it specified	6	again, please?
7	any levels.	7	MR. LIVELY: Sure.
8	Q It wasn't unique to Ms. Fisher; was it?	8	(Recess from 2:38 to 2:44)
9	A Oh, no. It's throughout our organization.	9	Q (BY MS. MILLER) We're not sure we got a
10	Q Communication, on Number IV?	10	good answer on one of our questions. And when I
11	A Um-hmm.	11	asked about after you had complaints about
12	Q That was a problem throughout the UTMB.	12	Mr. Watson, what steps did you take with him? Did
13	That wasn't unique to Ms. Fisher, either; was it?	13	you issue a letter of expectation? Did you counsel
14	A Communication is always number one.	14	him? Did you reprimand him? Did you attempt to
15	You're right.	15	demote him?
16	Q Team work, communication, retention,	16	A What complaints are you talking about?
17	training.	17	Q Well, you indicated there were several
18	A Um-hmm.	18	complaints from his management group.
19	Q I mean, throughout the system, in the	19	A There was one complaint from his
20	second-tier issues I'm looking at now on page 440 of	20	management group.
21	Exhibit Number 11, that wasn't unique to problems	21	Q Okay.
22	Ms. Fisher had with her staff; was it?	22	A And I -- he resigned shortly thereafter.
23	A No.	23	I did -- I had -- no disciplinary action was taken.
24	Q Now, you're aware at some point in time	24	Q So you didn't take any steps because the
25	Ms. Fisher was offered a sum of money representing	25	time was too short.
	134		136
1	some of the pay that she had been -- missed.	1	A Yes.
2	A That's what I have heard.	2	MS. MILLER: Okay. All right. Thank
3	Q Okay. And you were -- were you a party to	3	you. I pass the witness.
4	that decision?	4	MR. LIVELY: We don't have any
5	A No.	5	questions. We'll reserve ours for time of trial.
6	Q Okay. Did anybody consult you about that?	6	MS. MILLER: All right. Thank you.
7	A No.	7	(Proceedings concluded at 3:46 p.m.)
8	Q Okay. Anybody consult you about the offer	8	
9	to reinstate her to her managerial position as a	9	
10	nurse manager?	10	
11	A No.	11	
12	Q That was done without your input and	12	
13	decision.	13	
14	A Yes.	14	
15	Q Okay. Were you pleased about that? Did	15	
16	you have an opinion about that?	16	
17	MR. LIVELY: About the reinstatement?	17	
18	Q (BY MS. MILLER) About the reinstatement.	18	
19	A No.	19	
20	Q You don't have an -- didn't have an	20	
21	opinion?	21	
22	A No.	22	
23	Q Yet, you were the one that decided she had	23	
24	to be demoted?	24	
25	A (Moving head up and down) Yes.	25	

137 1 CHANGES AND SIGNATURE 2 PAGE LINE CHANGE REASON 3 _____ 4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 I, MARY GOTCHER, have read the foregoing 25 deposition and hereby affix my signature that same	1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF TEXAS 3 HOUSTON DIVISION 3 JACKIE FISHER, _____ 4 Plaintiff, _____ 5 VS. _____ ) C.A. NO. 4:08-cv-01273 6 UNIVERSITY OF TEXAS MEDICAL 7 BRANCH and DAVID WATSON, _____ 7 Defendants. _____ 8 9 REPORTER'S CERTIFICATION 9 DEPOSITION OF MARY GOTCHER 9 AUGUST 27, 2009 10 11 I, Lorri Lucas, Certified Shorthand Reporter in 12 and for the State of Texas, hereby certify to the 13 following: 14 That the witness, MARY GOTCHER, was duly sworn 15 by the officer and that the transcript of the oral 16 deposition is a true record of the testimony given 17 by the witness; 18 That the deposition transcript was submitted on 19 _____ to the witness or to the attorney for 20 the witness for examination, signature and return to 21 me by _____; 22 That pursuant to information given to the 23 deposition officer at the time said testimony was 24 taken, the following includes counsel for all 25 parties of record:
138 1 is true and correct, except as noted herein. 2 3 _____ 4 MARY GOTCHER 5 6 7 THE STATE OF _____ 8 COUNTY OF _____ 9 10 Before me, _____, on 11 this day personally appeared MARY GOTCHER, known to 12 me (or proved to me under oath or through 13 _____)(description of identity card or other 14 document) to be the person whose name is subscribed 15 to the foregoing instrument and acknowledged to me 16 that they executed the same for the purposes and 17 consideration therein expressed. 18 Given under my hand and seal of 19 office this _____ day of _____, 20 _____. 21 22 23 24 NOTARY PUBLIC IN AND FOR 25 THE STATE OF _____	140 1 Ms. Jo Miller, Attorney for Plaintiff 2 Mr. Sam Lively and Ms. Cari G. Bernstein, 3 Attorneys for Defendants 4 5 That a copy of this certificate was served on 6 all parties shown herein. 6 I further certify that I am neither counsel 7 for, related to, nor employed by any of the parties 8 or attorneys in the action in which this proceeding 9 was taken, and further that I am not financially or 10 otherwise interested in the outcome of the action. 11 Certified to by me this 18th day of September, 12 2009. 13 14 15 16 17 LORRI LUCAS, RMR, Texas CSR 5317 18 Expiration Date: 12/31/09 19 Bayou City Reporting, Inc. 20 Firm Registration No. 295 21 1135 East 11th Street 22 Houston, Texas 77009 23 (713) 861-8589 24 25

Bayou City Reporting, Inc.